

S. HRG. 107-522

NATIONAL TRAILS BILLS

HEARING
BEFORE THE
SUBCOMMITTEE ON NATIONAL PARKS
OF THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED SEVENTH CONGRESS
SECOND SESSION

ON

S. 213	H.R. 37
S. 1069	H.R. 834
S. 1946	H.R. 1384

MARCH 7, 2002



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NATIONAL TRAILS BILLS

THURSDAY, MARCH 7, 2002

U.S. SENATE,
SUBCOMMITTEE ON NATIONAL PARKS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:57 p.m., in room SD-366, Dirksen Senate Office Building, Hon. Daniel K. Akaka presiding.

OPENING STATEMENT OF HON. DANIEL K. AKAKA, U.S. SENATOR FROM HAWAII

Senator AKAKA. The Subcommittee on National Parks is in order. The purpose of this afternoon's hearing before the Subcommittee on National Parks is to receive testimony on several bills dealing with the National Trails System. The bills that we will consider today include S. 213 and H.R. 37 to amend the National Trails System Act, to update the feasibility and suitability studies of four national historic trails, and provide for possible additions to such trails; S. 1069 and H.R. 834, to amend the National Trail System Act to clarify Federal authority relating to land acquisition from willing sellers, for the majority of the trails in the system, and for other purposes; S. 1946, to amend the National Trails System Act to designate the Old Spanish Trail as a National Historic Trail, and H.R. 1384, to amend the National Trails System Act to authorize a study of the Long-Walk route in New Mexico and Arizona to determine its suitability for inclusion in the National Trails System.

During the last Congress, we were able to designate the first National Historic Trail in Hawaii, called the Ala Kahakai. I know from my own experience that designation of a national trail can help draw attention to the historical facts associated with the trail, as well as help educate the public about the culture and people associated with the trail's history. I know the proponents of the trails we will be hearing about today have a similar feeling regarding their respective trails.

For the most part, these bills are non-controversial, and I hope that we can move them quickly through the committee and the Senate this Congress. Two of the bills have passed the House of Representatives with broad bipartisan support, and the other two have the strong support of their congressional delegations. I understand that there are some concerns with two of these bills, and I look forward to working with those Senators to see if we can address their concerns and move ahead with this legislation.

I now ask for the statement from our ranking member, Senator Thomas.

**STATEMENT FROM HON. CRAIG THOMAS, U.S. SENATOR
FROM WYOMING**

Senator THOMAS. Thank you, Mr. Chairman. Thank you for holding this hearing. Certainly, the trail subject is one of importance to all of us. I have some concerns about a couple of these proposals that are before us today, specifically with respect to the willing buyer/willing seller amendment, which basically fails to address the idea of how much acreage would be involved, what would be the cost of the authorization, the location, and the interest owned by the willing sellers, which I think really ought to be known before we pass something of this magnitude; but perhaps we can find a way to fix it.

I am a little reluctant, of course, to be concerned about any of these. We have had great success stories with the National Trail System in my State. Dru Bower, who is vice president of the Wyoming Petroleum Association, is here today to testify, and talk about some of the cooperative endeavors we have had between trails and multiple users, and such.

However, we have had a few problems. For instance, we have had a BLM proposition in Wyoming to protect the 5-mile buffer zones on either side of the trail; and frankly, I was concerned about that, and resisted it to some degree. Thankfully, that has been rescinded this week, but the problem is it bounces back from time to time, and it really makes it tough to do when there are those kind of restrictions in place.

So in any event, we hope we can find a way to move forward with these issues. We have quite a few trails in Wyoming, and I think we have to be thoughtful about where we want to be when this is all over in terms of the impact we have made on them. I look forward to the testimony of the witnesses. Thank you.

[The prepared statement of Senator Thomas follows:]

PREPARED STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR FROM WYOMING

Thank you Mr. Chairman for holding this hearing today, and I would also like to welcome the Administration's representatives and the witnesses to today's subcommittee hearing.

Mr. Chairman, it is not often that I take issue with legislative proposals that are under consideration by this subcommittee. Our process has allowed many controversial bills to proceed through the full committee because of our bipartisan work together to forge compromise and accommodation.

I do have some concerns with two sets of legislative proposals that are under consideration today. The first, are the "willing seller" bills (S. 1069 and H.R. 834).

While some of the trails in question share some of the identical routes and space that other nationally designated trails which have provisions for "willing sellers", this proposal fails to address:

- the acreage that may be involved;
- the cost of the authorization;
- the location of the lands and interests owned by the willing sellers;
- or any information on how many willing sellers we are talking about.

Now I am fully aware that the subsequent trails to these eight, reported and passed by this committee, lack the same information—I am inclined to amend this bill in the committee markup to rectify what I consider an oversight on more recently created trails, at least within the boundaries of Wyoming.

I say this somewhat reluctantly. We have had some great success stories with the National Trails System in my State. Dru Bower, Vice-President of the Wyoming Pe-

troleum Association is here with us today and she is more than capable of explaining to the subcommittee some of the cooperative endeavors and true success stories that the industry and trail advocates have forged. Unfortunately, she can also describe some of the difficulties she and her colleagues have encountered along the trail routes.

Recently the Bureau of Land Management issued an "instruction memorandum" which presented guidelines to protect trails, including the equivalent of 5-mile buffer zones on either side of the historic routes. I found it necessary to appeal for the return of common sense. Thankfully, the memorandum was rescinded just this week. But, fear not—there is still hope for those who advocate the five-mile buffer zones. Other land management agencies are contemplating five mile do-not-touch circles around any sage grouse habitat which just happens to be in the same vicinity of the trails. There appears to be no final solution to these issues.

I might remind the Administration, the government owns a sufficient amount of land in my State. In fact, nation-wide, we really have no idea how much land is managed and controlled by government, if you include the State, county and cities along with the 8,506 other government management entities such as port authorities, fair grounds, etc. I imagine it would be a phenomenal statistic.

On a more positive note, the historic trails across Wyoming fill pages of our country's history and should be celebrated, designated, and saved for us, our children and their children's children. But, no where in the underlying Act does it direct anyone to save every single inch or mile.

If there is a willing seller in Wyoming and he or she is prevented from assigning, or selling a right-away, or major historic trail site to the managing trail entity—if I am made aware of the cost, the amount of acreage, and the rationale for such an acquisition I will be more than glad to introduce legislation and do everything that I can to make sure the bill is enacted into law. On the other hand, I will draw the line across the trail, before I advocate a proposal to provide this or any other Administration unlimited land acquisition authority.

Finally, both the Senate and House bills contain a quote, "conforming amendment", unquote, which simply eliminates the provision which limits the number of federally funded visitor centers that may be built within a State. I see no reason to remove this limitation.

Mr. Chairman, my good friends and colleagues, Senator Hatch and Senator Bennett, have introduced legislation which would update the feasibility and suitability studies of four national historic trails. After reviewing the National Park Service maps, I am not excited about this legislative proposal either.

According to the map, the NPS would study potential trail additions in the only area of Wyoming that currently is free and clear of designated trails. With some work and a great deal of care and attention I may be persuaded to work on a compromise.

Mr. Chairman, thank you for your patience and indulgence, I appreciate your attention to my concerns.

Senator AKAKA. Thank you very much, Senator Thomas.
Senator Campbell.

STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR FROM COLORADO

Senator CAMPBELL. Thank you, Mr. Chairman.

I am happy to be here. I am a big supporter of the trail system, and I would like to speak for a minute or two about one that is of particular importance to me this year, and that is the Old Spanish Trail.

I think the first time I really got involved with this trail is when I was chairing the subcommittee about 7 years ago, Mr. Chairman. In 1995, I requested a feasibility study to determine whether the trail should be included, and its significance to the Nation. What so many others and I had already suspected was concluded in a recently published final study: that this trail does meet the criteria for a National Historic Trail, and that it is both feasible and desirable to designate it as such, and I say that in quotations.

I would also like to welcome my fellow Coloradan, Shane Henry, who is here to testify on the importance of this bill. Mr. Henry has worked on the Old Spanish Trail for a good number of years, and is active with the Old Spanish Trail Association of Colorado, which is one of the most active in the country in getting this trail designated as a National historic trail, and I look forward to his testimony.

Many of us in the West have known about this trail for years. Certainly my friend, colleague, and neighbor, Senator Domenici, has and has also worked on this issue. We have heard stories of the men and the women of all ethnic backgrounds who used the trail as a commercial and migratory route through the West. This designation of the Old Spanish Trail ensures that the entire Nation can appreciate the rich history that the trail represents.

The Old Spanish Trail was the most heavily used before the expansion of the railroads that brought so many people to the West. The trail was initially developed by Native Americans and Hispanics in the region, but was soon used by explorers, trappers, prospectors, immigrants, and a number of other people. The Trail was even used by the Mormons in 1847 as a wagon route while traveling between Salt Lake City and Los Angeles.

As I mentioned, the Old Colorado Old Spanish Trail Association has worked diligently on the promotion of this trail for several years. Their knowledge on the Trail and its history can't be rivaled, and certainly exceeds mine. But in preparing for this hearing, I did ask them to submit their testimony, and I now ask them, Mr. Chairman, if we can include that as part of the record, so that their work can be recognized.

Senator AKAKA. It will be included in the record.

Senator CAMPBELL. I also understand that the Association of the National Parks Service has suggested some technical amendments to the bill, and as we move forward in the legislative process, and as a member of this committee, I am certainly happy to consider these changes. And I also understand that the Department of Interior recognizes that the Trail should be officially recognized, but due to fiscal concerns, the Department requests no designation at this time.

I have to tell you, I have waited seven years for this, as many of us have. And I happen to think it is the time. And I do not think that simply making the designation is going to incur any substantial cost in doing so. The people of my State, and, indeed, the country, have waited long enough. The Old Spanish Trail stands as a benchmark of the Old West. The Trail's designation will add to the scholarship and appreciation of that critical developmental time in the history of our great nation. Thank you for the time, Mr. Chairman.

Senator AKAKA. Thank you very much, Senator Campbell.
Senator Domenici.

**STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR
FROM NEW MEXICO**

Senator DOMENICI. Mr. Chairman, thank you very much for holding this hearing. I want to especially welcome the president of the Navajo Nation, President Begaye; he is in the back. Would he come

up and sit a little closer to us, perhaps pull a chair up there at that table? This is the president of the Navajo Nation and he comes here to testify. I wanted to welcome him to the Senate.

Today, this subcommittee has before it two pieces of legislation that are of particular significance to our State. The first is the Long Walk National Historic Trail Study Act, which was passed by the House, and the second is the Old Spanish Trail National Historic Trail Act, which I co-sponsored. Let me take a moment and discuss the significance of each of these. In the late 1800's, Colonel Kit Carson led an army raid on the Mescalero Apache and Navajo Tribes in New Mexico, and over 400 Apaches and 7,000 Navajo Indians were forced to march over 350 miles to Bosque Redondo during the winter of 1864. This has come to be known as "The Long Walk." This forced relocation effort failed, and after nearly 3 years, the Mescalero and Apaches were allowed to go back to their homeland. And in 1868, the army finally admitted the failure of the Bosque Redondo and the Navajo people negotiated a treaty with the Government, acknowledging their sovereignty over their beloved homelands.

A century later in 1968, a portion of Fort Sumner, and the Bosque Redondo reservation, were declared a New Mexico State monument. The present route tells a significant story, and I firmly believe we should study and consider it for potential addition to the National Trails System. Of equal importance to New Mexico is S. 1946, the Old Spanish National Historic Trails Act. Last year, I introduced that bill. There is a history to what happened to it last year, and I have remarks that are already in the record from other Senators, so I will not repeat. But I will ask you to make my remarks a part of the record at this point.

Senator AKAKA. Without objection, they will be made a part of the record.

Senator DOMENICI. I thank you very much, Mr. Chairman.

[The prepared statement of Senator Domenici follows:]

PREPARED STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR
FROM NEW MEXICO

Mr. Chairman, thank you for holding this important hearing today and I especially want to welcome President Begaye of the Navajo Nation.

Today, this subcommittee has before it two pieces of legislation that are of particular significance to New Mexico. The first is the Long Walk National Historic Trails Study Act, which was passed by the House and the second is the Old Spanish Trail National Historic Trail Act, which I have co-sponsored.

Let me take a moment and discuss the significance of each of these to New Mexico. In the late 1800's, Colonel Kit Carson led an army raid on the Mescalero Apache and Navajo Tribes in New Mexico. Over 400 Apaches and over 7,000 Navajos were forced to march over 350 miles to Bosque Redondo during the winter of 1864. This has come to be known as the "Long Walk".

This forced relocation effort failed and after nearly three years, the Mescalero Apache were allowed to go back to their homeland. In 1868, the army finally admitted the failure of the Bosque Redondo, and the Navajo negotiated a treaty with the government acknowledging their sovereignty over their beloved homelands.

A century later, in 1968, a portion of the Fort Sumner and the Bosque Redondo Reservation was declared a New Mexico State Monument.

Mr. President, this route tells a significant story and I firmly believe we should study and consider it for potential addition to the National Trails System.

Of equal importance to New Mexico is S. 1946, the Old Spanish National Historic Trail Act. Last year, I introduced a bill that would have designated the Old Spanish Trail as a National Historic Trail. When I introduced that bill, we were waiting for the Administration to complete its work on a final study. Before the study was com-

pleted, Senator Campbell wrote a personal note to me asking that I work with him on a new bill incorporating the new study. We introduced that bill on February 14 and I want to commend you for holding such a prompt hearing on our legislation.

As with my original bill, this legislation will amend the National Trails System Act and designate the Old Spanish Trail; which originates in Santa Fe, New Mexico and continues to Los Angeles, California as a National Historic Trail.

It has been 150 years since the first settlers embarked on their western journeys via the Old Spanish Trail. Citizens who settled in the West came from all walks of life and have deep rooted cultural and historic ties to land throughout the west. Since 1829, The Old Spanish Trail has served many, from trade caravans to military expeditions. For twenty plus years the Old Spanish Trail was used as a main route of travel between New Mexico and California. Further, it is a symbol of the commercial exchange that made development and growth popular, not only in the West, but throughout the country.

This trail is of great significance today because of the role it played in the movement of civilization westward. Designating this trail as part of the National Trails System will preserve this treasure for our future. I am happy to have co-sponsored this piece of legislation that will preserve the route of the trail and I urge this committee to act on the bill expeditiously.

Senator AKAKA. Thank you very much, Senator Domenici.

May I call from the administration, Katherine Stevenson, Associate Director, Cultural Resources Stewardship and Partnerships, National Park Service, Department of the Interior. Would you come forward?

STATEMENT OF KATHERINE STEVENSON, ASSOCIATE DIRECTOR, CULTURAL RESOURCES STEWARDSHIP AND PARTNERSHIPS, NATIONAL PARK SERVICE

Ms. STEVENSON. Thank you, Mr. Chairman.

Senator AKAKA. Thank you. You may proceed with your statement.

Ms. STEVENSON. Thank you very much. Thank you for the opportunity to present the views of the Department of the Interior on S. 213, S. 1069, H.R. 1384, and S. 1946. With your permission, I would like to submit my statement for the record, and summarize my remarks.

Senator AKAKA. Without objection, it will be submitted.

Ms. STEVENSON. Thank you. S. 213 would amend the National Trail System Act to update the feasibility and suitability studies of the Oregon, California, Pony Express, and Mormon Pioneer National Historic Trails. If authorized, Interior would examine additional routes and cutoffs not included in the initial studies of all four trails.

At the conclusion of the study, the Secretary would determine if any of these routes and cutoffs are eligible as additions to the National Historic Trail system. Further, legislation would authorize the Secretary to authorize any routes and cutoffs found eligible.

The Department supports the proposed legislation but has not requested funding for this work in 2003. Instead, we believe that any funding requested should be directed at completing previously authorized studies. Would you like me to stop here?

Senator AKAKA. Thank you. Would you hold up for a few minutes? Now, I would like to call our two good friends, Senators Hatch and Levin, who have arrived for their statements to the subcommittee.

Senator Hatch.

**STATEMENT OF HON. ORRIN HATCH, U.S. SENATOR
FROM UTAH**

Senator HATCH. Well, thank you, Senator Akaka.

I appreciate your courtesy to us. Mr. Chairman and members of the committee, thank you for holding this hearing on S. 213. This bill would allow the National Parks Service to update the Pony Express, the Oregon, the California, and the Mormon National Historic Trails to include variant routes taken by the early pioneers of the West.

When the National Trail System Act established the Oregon and Mormon Trails in 1978, they defined these trails as, quote, "point-to-point," meaning that a single departure point had to be chosen, as well as a single destination. The Act allowed few variations from the line that was drawn between these two places. That needs to be changed.

The Mormon Trail was defined as the route taken by Brigham Young in 1846 through Iowa to the Salt Lake Valley. The Oregon Trail was defined as the route taken by settlers from Independence, Missouri, to Oregon City, from 1841 to 1848. Unfortunately, we have come to recognize that this rigid definition precludes designation of some very important historical sites.

In 1992, Congress passed an amendment to the California and Pony Express National Historic Trails, which broadened the statute to include the possibility of trail variants, but only for the California trail. This latitude ought to be extended to other trails, as recognized in S. 213.

These trails are the highways of our history, Mr. Chairman. They are central to the great story of the West, but unfortunately, because of the confining, quote, "point-to-point" wording now found in the Trail's Act, many crucial parts of the story are not being told. Not every pioneer embarked on his journey from Omaha or from Independence, and not every great or tragic event took place along the main routes.

To the contrary, tens of thousands of settlers set out from other places; and many of the memorable, if not most important events occurred along historical side roads and alternative routes and alternate routes that were chosen because of inclement weather, lack of water, and conflicts with Native American tribes at that time, among other reasons. Now, Mr. Chairman, I would like to talk briefly about the Martin and Wooly Hancock companies, which consisted of pioneer families destined for Utah. Both companies departed from Iowa City in 1856; however, because of larger than expected group sizes and a shortage of handcarts and tents, they left later in the year than was usual.

At first they made excellent time, but delays along the route turned their trek into a race against the coming winter. These two companies were about 100 miles apart, but both experienced similar delays which led to food shortages and to their being caught in freezing, inclement weather.

Winter that year came a month early, and by the time they reached Wyoming, both companies were brought to a halt by sub-zero temperatures and snow up to 18 inches deep; they were trapped. What little food they had disappeared.

Mr. Joseph Simmons, one of these pioneers, described the dire situation in a letter to a friend. He wrote, "One old lady lay dead within 20 feet of me, babies crying, some singing, some praying. Almost every day angry storms arise, very threatening, and judging from their appearance, one would think that we should be unable to withstand the tempest. The suffering from the camp from frozen feet and various other causes, I will not attempt to describe. Suffice to say bad, bad, bad."

In Salt Lake City, on the eve of the Mormon General Conference, Brigham Young received word of the possible plight of these immigrants. The next morning from the pulpit, he called immediately for a mighty rescue effort. He informed the congregation that a hot baked potato was something more important than all the prayers in the world. That day began one of the most massive rescue efforts in the history of the American West.

Despite their efforts, more than 200 people, or one-sixth of the companies, died, and dozens more were maimed from frost bite. One of the rescuers, Mr. George Grant, wrote the following. "Imagine 500, 600 men, women, and children worn down by drawing handcarts through snow and mud, fainting by the wayside, falling, chilled by the cold, children crying, their limbs stiffened by the cold, their feet bleeding, and some of them bare to snow and frost. The sight is almost too much for the stoutest of us, but we go on doing all we can, not doubting or despairing."

This, and many other experiences and general accounts, document the heartbreaking experiences of the two companies and their rescuers. Unfortunately, the location of these events is not now included on the Mormon Pioneer Trail. It would be tragic, Mr. Chairman, to allow this story and others like it to slip through the cracks because of the strict interpretation of the National Trails System Act.

Since the original passage of the Trails Act, the Parks Service has conducted endless hours of research and now has a more accurate picture of the story of our Western pioneers. There has been a great deal of support shown by State and local communities who want to broaden the act to include this new knowledge; however, the Parks Service has determined that legislation is required to do this.

I understand that Dru Bower, with the Petroleum Association of Wyoming, will testify later regarding her concerns with how the designation of historic trails might impact this industry. I would like to state for the record that I share her concerns, and we will work together to resolve them.

My legislation is an attempt to capture important parts of our history in the West. It is not intended in any way to impact private lands or the development of our natural resources on public lands.

Mr. Chairman, I thank you and the members of this committee for holding this important hearing today. I urge you to allow this legislation to be marked up in the near future.

I would like to acknowledge Mr. Patrick Hearty, who is the National Trails Chair for the National Pony Express Association, who is here today. We are grateful to have him here today and I hope that you can help us on this, because it would really, I think, solve some problems for those of us who love the history of the West,

those of us who would like to love the history of the West and understand it even further, and as a memorialization of all those who suffered so much, and who helped to build this country the way they did. Thank you.

Senator AKAKA. Thank you, Senator Hatch, for your statement and a bit of history.

Senator HATCH. Well, thank you.

Senator AKAKA. Thank you very much.

Senator HATCH. If you will forgive me, I think I will get out of your hair then, unless you have any questions.

Senator AKAKA. Senator Levin.

**STATEMENT OF HON. CARL LEVIN, U.S. SENATOR
FROM MICHIGAN**

Senator LEVIN. Thank you, Mr. Chairman, Senator Thomas. Thank you for holding this hearing today.

I am here to speak on behalf of legislation which would allow the Federal Government to purchase easements, basically, along our trails from willing sellers. Our national trails act is inconsistent in this regard. Many of our trails have the willing seller provision in it, but some of our trails, our scenic and historic trails, do not have the authority to purchase from willing sellers.

There is no logic to it, particularly, but that is the way it is. And unless we adopt a law which permits the Federal Government to purchase the land and the easements from willing sellers, we are going to find impediments that exist in some of our trails which do not exist in other of our trails.

We have nine scenic and historic trails which do not have that opportunity for, again I emphasize, willing sellers to sell easements and property to the Federal Government, that is trying to put together these trails.

I am here particularly, because of my interest in the North Country Trail. It is a 4,600-mile trail that crosses seven States; it's about half in. There are places where it would be desirable to acquire an easement from a willing seller, or to purchase, for instance, a historic property that might be in jeopardy from a willing seller, such as the type that Senator Hatch just described. But I want to just emphasize two points.

This trail covers seven States. It is important, I think, to the people of the Nation, not just to these seven States, that we have this trail. It would be the longest—I believe the longest trail in the country when it is completed. It will not be finished in our lifetime and it will not be finished probably in our children's lifetime. Some day, though, there will be a 4,600-mile trail covering these States where people can walk, or hike, or bike.

I cannot see any reason, any philosophical reason why we should not allow a willing seller to sell an easement to the Federal Government. I can understand the argument against imminent domain, but where we have a trail which has been adopted, in law, that crosses seven States, where a willing seller is willing to sell an easement, for instance, to the Federal Government so that the trail would be safer, I do not see any reason why we should not permit that seller to sell that easement.

In a sense, this is not just a trail's bill that we are proposing here, which will allow us to complete the 4,600-mile trail more readily that is, again, about half in; this is kind of a property rights bill. Under current law, half our trails do not permit a willing seller to sell his easement or his land to the Federal Government. They say, "Sorry, you are willing to sell."

We are not talking eminent domain; I emphasize that. You are willing to sell your easement or whatever to the Federal Government; it needs it to complete the trail. Half our trails have that authority, half do not; totally illogically, to differentiate, but that is the way the current law is. And unless we correct the law and unless this committee reports a bill out, or we can otherwise legislate in this area, we have this unusual circumstance where we have these scenic and historic trails on the one hand, including the North Country Trail, where the Federal Government cannot buy from a willing seller, and then we have all of our other trails, where the Federal Government can buy from a willing seller.

So I would hope that that anomaly would be corrected by this committee, that we would permit all of our trails to have the power not to condemn, but to acquire from a willing seller. It is that simple, I hope. Maybe I have oversimplified it, but I think it is that simple a picture.

Senator AKAKA. Thank you very much.

Senator LEVIN. Thank you all.

At this time, we would like to have Katherine Stevenson back at the table, and please continue with your statement.

Ms. STEVENSON. Thank you, Mr. Chairman. I would like to move on to S. 1069 and H.R. 834, which would clarify Federal authority relating to land acquisition from willing sellers for the majority of trails in the National Trail System. The Department supports enactment, with technical amendments. The core authorities in the Trail System Act direct how to establish nationally significant trails. In 1968, when the act was passed, the trails designated did not foresee any need for their Federal partners to acquire land. This was also true for trails designated in the period of 1978 to 1983, as amendments to the act; therefore, none of the nine trails has the authority to use Federal funds for any land outside Federal boundaries.

Since 1983, the pattern has been somewhat different. The supporters and the sponsors have agreed on willing seller authority that provides authority for the Federal Government to acquire important trail lands, if the owner consents. We agreed that this authority would provide much needed protection for high potential trail segments.

H.R. 1384, the Long Walk Trail Study bill, proposes to amend the National Trail System Act to designate for study the route in Arizona and New Mexico, which the Navajo and Mescalero Apache tribes were forced to walk in 1863 and 1864. The Department supports the bill but has not requested funding for 2003, as I explained earlier.

There are projects underway to commemorate various aspects of this history. No. 1, plans are underway for a memorial and visitor center at Fort Sumner State Monument, and matching funding is authorized for this purpose from the Department of Defense.

No. 2, the National Parks Service is authorized to work with the Navajo and Mescalero Apache tribes to develop a symposium and curriculum for New Mexico schools. The study must identify options for commemoration, protection, and interpretation in close collaboration with the tribes, the State, and other interested parties.

Finally, S. 1946 proposes to designate the Old Spanish Trail as a national historic trail. The Department thanks Senator Campbell for his continued support and interest in support of the Old Spanish Trail. The administration recommends, however, that the Congress defer action on designating any new areas until more progress has been made in addressing the maintenance backlog and on existing National Parks Service areas. The National Parks Service has completed the feasibility and suitability study for this trail, and has transmitted it to Congress, as Senator Campbell mentioned, in the early part of February 2002.

This concludes my testimony. I would be happy to answer any questions you might have.

Senator AKAKA. Thank you very much.

[The prepared statements of Ms. Stevenson follow]

PREPARED STATEMENTS OF KATHERINE STEVENSON, ASSOCIATE DIRECTOR, CULTURAL RESOURCES STEWARDSHIP AND PARTNERSHIPS, NATIONAL PARK SERVICE ON S. 1946, S. 213 AND H.R. 37, S. 1069 AND H.R. 834, H.R. 1384

S. 1946

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to present the Department of the Interior's views on S. 1946, a bill to amend the National Trails System Act to designate the Old Spanish Trail as a National Historic Trail.

The Department thanks Senator Campbell for his continued interest and support of the Old Spanish Trail. However, we recommend that the committee defer action on S. 1946 during the remainder of the 107th Congress. To meet the Administration's Initiative to eliminate the deferred maintenance backlog, we need to continue to focus our resources on caring for existing areas in the National Park System. Administrative costs for this trail are estimated to initially be \$100,000 to \$200,000 yearly increasing up to \$750,000 or more each year once the trail is fully operational. Land acquisition costs are difficult to estimate since acquisition is subject to willing sellers and local cost comparables but typically in trails of this type little if any land is acquired. At such time as this legislation moves forward, we suggest that the bill be amended as outlined in this testimony.

The National Park Service was authorized to study the Old Spanish Trail by Public Law 104-333, Section 402. The final study concluded that the trail met all national historic trail criteria as defined by the study provisions of the National Trails System Act (P.L. 90-543). The study was presented to the National Park System Advisory Board and the board concurred with the findings.

The draft study released in July, 2000 included a finding that there was insufficient historical information to recommend designation as a national historic trail. During the comment period, the National Park Service continued to research trail history and consult with historians in the United States and Mexico. The designation determination was made based upon the theme of the "Changing Role of the United States in the World Community" with specific emphasis on the topic of commerce during the period 1829 to 1848, and the impacts of legal and illegal trade upon the American Indian nations along the trail.

S. 1946 would add the Old Spanish Trail as a national historic trail component of the National Trails System. It would designate the primary route of the trail, the Armijo Route and the North Branch, along with some shorter variations of these routes, totaling approximately 3,500 miles. The trail begins in Santa Fe, New Mexico, and runs through the states of Colorado, Utah, Arizona, and Nevada, before ending in Los Angeles, California.

The bill states that the trail would be administered by the Secretary of the Interior, through the National Park Service. As provided for in the National Trails Sys-

tem Act, on non-Federal lands, the trail would be established only when landowners voluntarily request certification of their sites and segments. No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the United States for the trail, except with the consent of the owner of the land.

The Old Spanish Trail was the first viable overland trade route between Santa Fe, New Mexico and Los Angeles, California, the two most important provincial capitals in the Southwest in the early nineteenth century. New Mexican trader Antonio Armijo blazed the trail in 1829, when he led a caravan laden with New Mexico's woolen goods to Los Angeles to trade for horses and mules that were abundant on the ranches of southern California.

News of Armijo's feat encouraged other traders to attempt the dangerous overland route. In 1830, two American traders blazed a more northerly route that followed river valleys through Colorado and Utah before reuniting with Armijo's route in Nevada. Over the next two decades, annual mule caravans carried goods from New Mexico to California over these variants of the Old Spanish Trail. The caravans returned with massive herds of horses and mules that were traded in Santa Fe for Mexican silver, that traders brought up the Camino Real, or American manufactured goods brought across the plains on the Santa Fe Trail. After the United States won control of the Southwest from Mexico, traders and emigrants found other, more accommodating, routes to California. By 1849, use of the Old Spanish Trail faded.

Partnerships are essential for the preservation and interpretation of Old Spanish Trail resources, from trail remnants to archeological sites. With continued and ever-increasing public interest to help commemorate the trail, opportunities for partnerships are very promising. Organizations, such as the Old Spanish Trail Association, expressed their eagerness to help with the trail during the study process. Long-term success of the trail would depend on continued involvement from partners, landowners, other organizations, and individuals, as well as the States of New Mexico, Colorado, Arizona, Utah, Nevada, and California.

In the future if the bill moves forward, we would recommend that S. 1946 be amended by changing "map" to "maps" on page 2, line 8 and "A map" to "The maps" on page 2 line 11. A total of nine maps are used in the *Old Spanish Trail National Historic Trail Feasibility Study and Environmental Assessment* to describe the location of the trail.

Also, although the National Park Service completed the feasibility and suitability study, and would be pleased to administer the trail, there are many agencies involved in administering the lands that the trail passes through. For example, the Bureau of Land Management manages over 800 miles of the trail as it passes through Colorado, Utah, New Mexico, Arizona, and Nevada. We would suggest amending paragraph (C) to state that the trail will be administered by the Secretary of the Interior by striking "acting through the Director of the National Park Service". This will make the bill consistent with the National Trails System Act which specifies that the Secretary designate the agency to administer a trail.

We appreciate the subcommittee's interest in this legislation.

S. 213 AND H.R. 37

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on S. 213 and H.R. 37, bills that would amend the National Trails System Act to update the feasibility and suitability studies of the Oregon, California, Pony Express and Mormon Pioneer National Historic Trails (NHT).

Both S. 213 and H.R. 37 would update the feasibility and suitability studies and make recommendations through the examination of additional routes and cutoffs not included in the initial studies of all four trails. The Secretary of the Interior would determine if any of these routes and cutoffs are eligible as additions to the four NHTs at the completion of these studies. Further, both bills would authorize the Secretary to make authorization of any of these additional routes and cutoffs if she found them eligible.

The Department supports both bills. However, the Department did not request additional funding for updating these studies in Fiscal Year 2003. We believe that any funding requested should be directed towards completing previously authorized studies. Presently, there are 40 studies pending, of which we hope to transmit 15 to Congress by the end of 2002. New studies can eventually result in new designations, and we believe that it is important to focus our resources on working down the deferred maintenance backlog at existing parks. Of the studies underway during the ten-year period between 1989 and 1998, NPS has transmitted 79 studies to Congress. These 79 studies resulted in 15 new NPS units, 14 heritage areas, and 10 other types of designations or programs. To plan for the future of our National

Parks, the Administration will identify in each study the costs to establish, operate, and maintain the site should it result in a future designation.

The feasibility study for the Oregon NHT was completed in 1977, the study for the Mormon Pioneer NHT in 1978, and the one for the California and Pony Express NHTs in 1987. Since those studies have been completed, additional routes and cutoffs were identified, and may qualify as parts of these trails. The National Trails System Act makes no provision by which such additional routes and cutoffs may be evaluated and added to national historic trails.

The Oregon NHT, authorized in 1978, commemorates the "primary route" used by emigrants beginning in 1841 between Independence, Missouri and Oregon City, Oregon. Traveled by thousands, the trail contained routes and cutoffs used through the years. These secondary routes had substantial emigrant traffic over several decades that demonstrate historical significance and may be worthy of examination in an updated study.

The authorization of the Mormon NHT in 1978 commemorates the journey of the pioneer party in 1846-1847 from Nauvoo, Illinois to Salt Lake City, Utah. As with the Oregon NHT, emigrant traffic occurred on many additional routes during the Mormon migration westward. Similarly with the other trails, these routes are more often than not coincident or shared with one another. Preliminary data indicate traffic along those routes during the historic period and there are additional routes to be studied for these two trails.

Authorized in 1992, the California NHT commemorates the gold rush to the Sierra Nevada. Dozens of routes and cutoffs were traveled by thousands of pioneers, but no single route dominated.

The Pony Express NHT was included in the same authorizing legislation as the California NHT. It commemorates the efforts of this nation struggling to establish a system of communication across the Trans-Missouri west. The trail primarily follows routes beginning at St. Joseph, Missouri and ending in San Francisco, California. The firm of Russell, Majors, and Waddell, a western Missouri freighting company, set up and operated the Pony Express for one and a half years before it fell on hard times and ceased to exist. A short section of the trail, from the Missouri River into Kansas, maybe worthy of study and is included in both S. 213 and H.R. 37.

All four trails overlap one another in many locations and several of the routes and cutoffs proposed for study in S. 213 and H.R. 37 are already part of designated trails. These shared routes are prominent where the trails depart from various points along the Missouri and Mississippi Rivers, particularly in the Kansas City, St. Joseph, Nebraska City, Council Bluffs and Omaha areas. Several other shared locations include routes in western Nebraska, Kansas, Colorado, Wyoming, Idaho, Nevada and California.

The National Trail System Act requires that studies of lands proposed for trails be made in consultation with federal, state, and local agencies, as well as nonprofit trail organizations. Between 1994 and 1999, the National Park Service—in collaboration with the Bureau of Land Management, USDA Forest Service, trail advocacy groups and others—completed the *Comprehensive Management and Use Plan and Environmental Impact Statement* (1999) for the four trails. This was the initial plan for the recently established California and Pony Express NHTs as well as revised plans for the earlier established Oregon and Mormon Pioneer NHTs. S. 213 and H.R. 37 would allow for the consideration of these additional alternates and cutoffs by authorizing an update of the original studies done for these four trails to evaluate which are eligible for designation as NHT segments. S. 213 and H.R. 37 would authorize the Department of the Interior to work closely with federal agencies, state, local and tribal governments, local landowners and other interested parties.

Historic trails cross public and private lands and the intent of the National Trails System Act is one of respecting private property rights. In so doing, the development of strong partnerships is critical to administering and managing the historic trails and achieving preservation of trail resources and interpretation of the trail to the public. The four national trails in this legislation demonstrate existing public and private partnerships.

S. 1069 AND H.R. 834

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to present the Department's views on S. 1069 and H.R. 834, identical bills, both of which would amend the National Trails System Act to clarify federal authority relating to land acquisition from willing sellers for the majority of the trails in the System.

The Department supports S. 1069 and H.R. 834 with four technical amendments to the National Trails System Act included at the end of this testimony. These bills would amend the National Trails System Act to make the act's land protection authorities more uniform. It would be impossible to estimate funding requirements at this time, as the number of willing sellers is unknown and the cost of the land segments for each trail would vary due to geographic location. The Administration will identify the costs to acquire and maintain the land segments to each trail on a case-by-case basis.

The National Trails System Act was developed by Congress principally to offer Federal assistance and support for protecting the land base of the Appalachian National Scenic Trail. When the act was passed in 1968, both the previously existing Appalachian and Pacific Crest National Scenic Trails were established as the two initial components of the National Trails System and 14 more trails were proposed for study as potential additions to the National Trail System. The core authorities of the act addressed how to establish nationally significant trails.

Supporters of some of the subsequent trails, such as the North Country National Scenic Trail, did not feel that their Federal partners would need acquisition authority to complete their proposed trails. In addition, national historic trails being proposed at that time were seen as primarily commemorative with no need for acquisition authority. As a result, amendments were added to the National Trails System Act between 1978 and 1983 to ban the use of Federal funds for any trail corridor outside Federal boundaries for nine of the next trails established. This meant that none of these trails, including both scenic and historic trails, could complete trail authorizations.

Since 1983, most of the trails established under the National Trails System Act have had language similar to the following clause: "No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the United States for the Pony Express National Historic Trail except with the consent of the owner thereof." This "willing seller authority" provides a workable middle ground between the full land acquisition authority used to protect the Appalachian and Pacific Crest National Scenic Trails and the complete ban on acquiring lands for the next nine trails added to the system.

S. 1069 and H.R. 834 would create consistent land protection powers, to the degree possible, for most of the component trails of the National Trails System. These bills are supported by a broad coalition of trail organizations across America.

From its beginning, the National Trails System was premised on the establishment, operation, and maintenance of national trails as a collaborative partnership effort. For land protection, specifically, state governments and nonprofit partners are encouraged to protect what they can of the national trails, with the Federal government embarking on land acquisition only as a last resort. Many states assume national trail protection to be considered a Federal effort. Further, trail nonprofit partners have been encouraged to develop land trusts to acquire critical lands, but there has been limited success.

For example, in Wisconsin, an arrangement was set up for the Ice Age National Scenic Trail under which the State of Wisconsin took the lead in acquiring trail lands, with support from the Ice Age Park and Trail Foundation and coordination by the National Park Service. However, this process has been cumbersome and slow while land values have escalated quickly near urban areas. Along historic trails, the major means of protecting the trail corridor has been through a voluntary certification process. These five-year renewable agreements between the Federal trail agency and the landowner have enabled trail sites and segments to remain in private ownership and use with some degree of public access. Such arrangements tend to be short term in nature and offer no long-term protection for significant sites.

No national trails other than the Appalachian and Pacific Crest National Scenic Trails have land protection plans or pre-acquisition services (surveys, tract maps, inventories, priority lists) because the prohibition on using funds to acquire lands also meant that funds could not be expended for these activities. This has meant that when landowners wished to donate lands for these trails to the Federal government, such transactions could not occur.

There is not a statistical inventory of trail sites and properties that have not been protected because of the lack of Federal funds for land protection. However, there are instances where lack of funding has meant that properties were sold to those uninterested in the trail, causing relocations, threatening the integrity and continuity of the trail, and in the instance of historic trails, threatening the loss of irreplaceable resources. Without the ownership mapping and other pre-acquisition information in hand, Federal agencies and nonprofit partners have been unable to accept donations of lands and easements.

If S. 1069 or H.R. 834 is passed, there will be at least five significant benefits for nearby residents and visitors to national trail corridors:

1. More uniform resource protection and protection authorities among all the national trails.
2. A more complete "tool kit" for Federal agencies and partners to help protect, as Congress intended, the significant cultural resources and natural areas associated with America's national trails.
3. Full market value available to landowners who wish to sell lands for inclusion in national trails if neither state agencies nor nonprofit partners are able to acquire the land.
4. Increased likelihood of moving dangerous on-road sections of national trails to safer, more appropriate off-road locations.
5. Increased protection for historically significant sites and segments of national trails.

The National Park Service has found that administering trails with the current limitations on types of land protection and with limited means to negotiate directly with landowners has meant that many of these trails are little more than "paper trails." If the National Trails System is to operate as a system, certain authorities within the act should be applied with consistency. The two national trail designations established in 1968 and all of the trails established since 1983 have had authority to spend Federal funds on lands with the consent of the owner. S. 1069 and H.R. 834 strive to apply that same principle to the trails established between 1978 and 1983.

The existing funding mechanisms for trail corridor protection of national trails are not enough to ensure that the trails will ever be completed or fully operational. Passage of willing seller authority will help establish parity among the trails and enable Federal trail administrators to use all the available authorities to complete the trails and trail corridors as they were originally designated.

We recommend four technical amendments to the National Trails System Act, which correct a few spelling and other grammatical errors. These amendments are attached to this testimony.

TECHNICAL AMENDMENTS TO H.R. 834 AND/OR S. 1069

On page 7, after line 2, add the following new section:

SEC. 6. TECHNICAL AMENDMENTS TO THE NATIONAL TRAILS SYSTEM ACT.

The National Trails System Act (16 U.S.C. 1241) is amended as follows:

- (1) In Section 5(c)(19) by striking "Kissimme" and inserting "Kissimmee";
- (2) In Section 5(c)(40)(D) by striking "later that" and inserting "later than";
- (3) In the first sentence of Section 5(d) by striking "establishment."; and
- (4) In Section 10(c)(1) by striking "The Ice Age" and inserting "the Ice Age".

H.R. 1384

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to present the Department's views on H.R. 1384, a bill to amend the National Trails System Act to designate the route in Arizona and New Mexico which the Navajo and Mescalero Apache Indian tribes were forced to walk in 1863 and 1864, for study for potential addition to the National Trails System.

The Department supports H.R. 1384, as passed by the House. However, the Department did not request additional funding for this study in Fiscal Year 2003. We believe that any funding requested should be directed towards completing previously authorized studies. Presently, there are 40 studies pending, of which we hope to transmit 15 to Congress by the end of 2002. New studies can eventually result in new designations, and we believe that it is important to focus our resources on working down the deferred maintenance backlog at existing parks. Of the studies underway during the ten-year period between 1989 and 1998, NPS has transmitted 79 studies to Congress. These 79 studies resulted in 15 new NPS units, 14 heritage areas, and 10 other types of designations or programs. To plan for the future of our National Parks, the Administration will identify in each study the costs to establish, operate, and maintain the site should it result in a future designation.

The Department testified on May 8, 2001 before the Subcommittee on National Parks, Recreation, and Public Lands, of the House Committee on Resources, that we could not support this bill as originally written. As introduced, H.R. 1384 designated the Navajo Long Walk as a national historic trail. However, the National Trails System Act, Public Law 90-543, requires that a desirability and feasibility study be conducted and submitted to Congress before a trail can be established and a study has not been completed on this trail.

H.R. 1384, as passed by the House, amends the National Trails System Act by authorizing a suitability and feasibility study on the series of routes which Navajo and Mescalero Apache Indian tribes walked beginning in the fall of 1863 as a result of their removal by the United States government from their ancestral lands, generally located within a corridor extending through portions of Canyon de Chelly, Arizona, and Albuquerque, Canyon Blanco, Anton Chico, Canyon Piedra Pintado, and Fort Sumner, New Mexico.

The story of the Long Walk came at a time in U.S. history when the military was called upon to remove Indian people from their homelands. In the 1850's and 60's more and more Americans were moving west into New Mexico, home of the Navajo people. Repeated clashes resulted in the decision to move the Navajo away from their ancient homeland to a reservation and teach them farming and Western European standards of self-sufficiency. The army destroyed crops and orchards, starving the Navajo into submission. There were several successive marches of the Navajo through the cold of winter to the heat of summer. The aged and infirm often died along the way even though wagons were sometimes provided. Broken and dispirited after their defeat in their homeland, the Long Walk was particularly grueling and hard on all of the Navajo people, even those who survived.

The destination of the Long Walk was a reservation at Fort Sumner, New Mexico, called Bosque Redondo (Round Grove), which was shared with Mescalero Apache people. More than 7,000-8,000 Navajo people were eventually placed on the reservation. Although seeds were provided and the Navajo planted them immediately, there was never any success in growing crops. Due to a lack of timber for both shelter and firewood, living conditions were poor. Additionally, the Navajo and Mescalero Apache did not get along and by 1866 the Apache had deserted the reservation. By 1868 conditions were so bad that a government commission was appointed to investigate the conditions at Bosque Redondo. General W. T. Sherman, commanding the Military Division of the Missouri, ordered the Navajo back to their homelands in June of 1868, after a treaty granting them their old homelands had been signed.

The Long Walk Trail is located within a corridor that includes National Park System units at Canyon de Chelly National Monument in Arizona and Fort Union National Monument in New Mexico and Bureau of Land Management (BLM) managed lands in New Mexico including El Malpais National Conservation Area and Kasha-Katuwe Tent Rocks National Monument. The route the army followed went from Canyon de Chelly, Arizona, to south of Albuquerque, New Mexico. From there several routes continued directly and indirectly to the Bosque Redondo at Fort Sumner on the Pecos River.

The story of the Long Walk is being told in a number of ways through the efforts of the State of New Mexico and the Navajo Nation. For a number of years, the Navajo people have made pilgrimages to the Bosque Redondo. Plans are currently underway for a memorial and visitor center at Fort Sumner State Monument. Legislation that passed in the 106th Congress (Title II of P.L. 106-511) authorizes funding from the Defense Department to match state funds for the establishment and development of the memorial and visitor center. The legislation also authorizes the National Park Service to work with the Navajo Nation and the Mescalero Tribe to develop a symposium on the Long Walk and a curriculum for New Mexico schools.

Any further federal involvement should consider more than whether or not the Long Walk has sufficient resources and integrity to meet the standards set for establishing National Historic Trails. A study should identify other options that best tell the story as well as identify the critical resources to that story. But most importantly, any work has to consider the concerns, values and wishes of the Native Americans affected by these tragic events.

Therefore, while a study to determine the suitability of national historic trail designation may be an important part of preserving this story and sites, any authorized study should include sufficient latitude to determine if that is indeed the best way to accomplish the task.

To that end, we are ready to work with the bill's sponsor, the State of New Mexico and the Navajo and Mescalero to determine the most appropriate action. That completes my testimony. I would be happy to answer any questions that you or any of the members of the subcommittee may have.

That completes my testimony. I would be happy to answer any questions that you or any of the members of the subcommittee may have.

Senator AKAKA. Ms. Stevenson, the administration is requesting that the committee defer action on the bill designating the Old Spanish Trail, so that the Park Service can provide funding for the backlog of maintenance projects. Can you please share your

thoughts, whether, from now on, the administration will be opposing all new designations, including new trails, park areas, or heritage areas?

Ms. STEVENSON. The Department is recommending at this point that we defer action on designating new areas until progress has been made on the backlog, and we anticipate that we will have measurement and progress before it is to the Congress, so that you can determine that we have made progress, and then we will be changing to recommend designations again.

Senator AKAKA. The Old Spanish Trail has been studied by the Park Service as required under the Trails Act. The Park Service's study finds that the trail meets the criteria for designation as a National Historic Trail. Recently, the President signed a bill establishing the Ronald Reagan Boyhood Home National Historic Site, even though no study of the site had been undertaken, as required by existing law. Can you please explain to me why the administration supported that designation, but opposes moving forward on the trail bill at this time?

Ms. STEVENSON. Actually, Mr. Chairman, the National Park Service and the Department supported a study bill for the Ronald Reagan boyhood home, and the Congress decided to designate it, and, of course, we follow the direction of Congress when they choose to designate a site.

Senator AKAKA. I would like to turn to the willing seller bill. If the land acquisition restrictions are removed for the nine trails addressed in the bill, does the Department have an estimate of how much land would be required for each trail?

Ms. STEVENSON. No, sir, we do not.

Senator AKAKA. In general, can you please describe what type of Federal land acquisition is involved for National Historic and National Scenic Trails?

Ms. STEVENSON. Ordinarily, what happens is that there is a small portion, usually of a trail, that is considered to be crucial for the continued development of the trail; and an owner will approach one of the Federal agency partners, and request that that portion be acquired by the Federal Government.

In this case, since we have no authority to do that, we must turn down the willing seller. If we had the authority, then a very serious determination would be made of whether this was essential property to be acquired, and the practice has been in the past that the property is acquired, and then we determine to access property that is outside of the trail necessity. At least, that has been the practice in the past.

Senator AKAKA. May I ask you to provide the committee with a list, identifying how much land has been acquired by the Department for those trails which already have land acquisition authority?

Ms. STEVENSON. Yes, sir.
[The information follows:]

LAND ACQUIRED FROM WILLING SELLER AUTHORITY RESPONSE TO QUESTION FROM
MARCH 7 HEARING ON TRAIL BILLS

Question. Would you please provide a list of the national scenic and historic trails that have land acquisition authority and the land/acreage acquired from willing sellers along those trails?

Answer. California and Pony Express National Historic Trails were authorized to acquire land from willing sellers in August 1992. No acreage has been acquired to date nor is any contemplated in the immediate future.

Santa Fe and Trail of Tears National Historic Trails have not acquired any lauds or interests in lands from willing sellers. Ninety-eight percent of the effort to complete these trails is devoted to voluntary certification of trail resources via negotiation with owners/managers. Non-profit groups are encouraged to step in when sites are threatened. In order to foster grassroots management, Federal acquisition is considered as a last resort should other partners fail to intervene.

El Camino Real de Tierra Adentro National Historic Trail is new and in the planning phase. No acquisition opportunities/needs have been identified.

Juan Bautista de Anza National Historic Trail has had no direct willing seller activity along its length.

Ala Kahakai National Historic Trail has had no willing seller activity along its length. According to the trail's feasibility study, the National Park Service will not initiate the acquisition of land for the trail. To date, no willing landowners have approached the trail office regarding land acquisition for the Ala Kahakai NHT.

We refer to the Forest Service with respect to the trails that it manages.

Senator AKAKA. Would you do that? Thank you. I will ask Senator Thomas for any questions he may have.

Senator THOMAS. Thank you. I want to pursue the same bill, in the terms of willing buyer/seller. After the studies are made and the Parks Service makes its judgment, do they come back to the Congress with their proposal to buy?

Ms. STEVENSON. No, they do not come back to the Congress, but, of course, the Congress controls the appropriations, so we only can purchase when the Congress makes funds available, and we have taken that as tacit approval of our proposals for purchasing.

Senator THOMAS. But the funds are not made specifically for each parcel?

Ms. STEVENSON. It depends, but ordinarily not; you are correct, Senator.

Senator THOMAS. Ordinarily not. That is true. The Senator talked about easements, only?

Ms. STEVENSON. In some cases, yes; but not entirely.

Senator THOMAS. Are we talking about easements only?

Ms. STEVENSON. No, Senator, we are not.

Senator THOMAS. So we are talking about the ability of the agency to buy as much property as they feel like they want to buy, without coming to the Congress, and letting it go at that; right?

Ms. STEVENSON. In the case of the National Parks Service at least, and I will have to check with my colleagues, we can only purchase within the legislated boundaries of the National Parks Service, so we are not talking about just buying land willy-nilly outside the boundaries.

Senator THOMAS. What about the rancher that says, "I will sell it to you, but you have to buy my whole place"?

Ms. STEVENSON. Within the boundaries of the National Parks Service, that would be something we would look at seriously. As I have said before, we would also then consider whether that needed to stay whole and in part inside the park; although, I would venture to say—

Senator THOMAS. But not inside the park, generally, or not inside the park?

Ms. STEVENSON. Inside the authorized boundaries of the trail.

Senator THOMAS. That is all you can buy; what is inside the boundaries of the trail?

Ms. STEVENSON. Right now, all we can buy is what is inside the boundaries of the National Parks.

Senator THOMAS. What would this do?

Ms. STEVENSON. This would expand the authority.

Senator THOMAS. To what?

Ms. STEVENSON. To land that is authorized within the boundaries of the trail, but not within the boundaries of the National Parks.

Is that correct?

[Pause.]

Ms. STEVENSON. That is correct.

Senator THOMAS. Are you sure there are boundary limitations in here?

Ms. STEVENSON. Well, I do not think there is a specific boundary; in the sense of a line, no.

Senator THOMAS. You do not think there is a specific boundary in the bill either; is there?

Ms. STEVENSON. Not that I recall.

Senator THOMAS. So, I think it is a big mistake. I do not think—those of us who live in public land States, where 60 percent of your State already belongs to the Federal Government—that even if it is a willing seller, without the approval or without a study that comes back to the Congress, I do not know why we would expect to just let the agency buy whatever they chose; do you?

Ms. STEVENSON. I certainly understand your point of view, Senator.

Senator THOMAS. Well, it is my point of view, and I feel very strongly about it. It could be easements, or it could also be fee simple.

Ms. STEVENSON. It could be.

Senator THOMAS. Let me go to S. 213. Here, again, the studies are made for areas that are off the trail but are related to the trail, apparently.

Ms. STEVENSON. Well, I think what has happened is that when the original studies were done, they did not consider the cutoffs, and the other portions of the trail that are considered—now understood as significant to the trail, and originally were not so understood.

Senator THOMAS. Martin's Cove, as the Senator mentioned, is in Wyoming, as a matter of fact. It is not a cutoff at all. It is an addition, that's off the trail, some 1,600 acres, I believe. Then under the bill, what, would there be a study and a return to the Congress to approve?

Ms. STEVENSON. Actually, the bill, as written, does not require return to the Congress. It requires a study and a designation, if the Secretary believes that it has merit.

Senator THOMAS. I see. I guess I am a little edgy about the idea of leaving the agency with the full authority to purchase lands. After doing a study and coming back and making their report, that is fine. But this one, as you know, has been controversial in that the Mormon Church has wanted to buy the property, and that has raised a considerable amount of consternation among people in Wyoming.

It is BLM property now, and I presume that's what this bill is about. I would think that we perhaps could make it usable, if we could get some sort of congressional approval on these significant sort of changes.

Ms. STEVENSON. Actually, Senator, I am not aware of that purchase, but you may be right.

Senator THOMAS. Thank you.

Senator AKAKA. Thank you very much, Senator Thomas.

Senator Campbell.

Senator CAMPBELL. Thank you, Mr. Chairman.

I have several questions on the Spanish Trail and some broader questions, too. I am a little confused, Kate. The Department is unwilling to designate, to support the designation of the Old Spanish Trail, but it favors the Willing Seller bill, which assumes they will have money to purchase some property. And as I understand your testimony, the maintenance backlog is what has encouraged the Department not to support the Spanish Trail bill. How do you justify—

Ms. STEVENSON. It is not exclusively the maintenance backlog. It is also paying attention to the units we already have and making sure that we are spending our full attention on them; but your point is well taken.

Senator CAMPBELL. Well, where do you stand on your maintenance backlog, if that is what is holding it up? What is it that is—

Ms. STEVENSON. It is approximately \$5 billion.

Senator CAMPBELL. \$5 billion? That is for what, upgrading and new facilities and all that stuff?

Ms. STEVENSON. It is everything from sewage treatment, to water, to historic structures, to trails maintenance.

Senator CAMPBELL. Well, in this bill, this National Trails bill, there is no authorization to do any of that stuff. I mean, it is just a designation; it does not cost anything to designate, except the paperwork. I mean, it does not allow purchase of property or anything that I know of, or authorized building, or doing any of that. So, what is the cost?

Ms. STEVENSON. It has been our experience that the start-up costs for a trail is between \$100,000 and \$200,000, and that those are the costs to—

Senator CAMPBELL. One-hundred—

Ms. STEVENSON. To \$200,000. Those are the costs to study the area, to get a staff, a minimum staff on board, travel, and so on.

Senator CAMPBELL. I see.

Ms. STEVENSON. Those can grow up to as much as \$750,000 for administrative costs. Now, that is the very high end, to be sure.

Senator CAMPBELL. You probably know, Kate, around here, we spill more than that every day, when you talk about the total budget and how much we spend on different things, whether it is military, education, etc. What is the time line we are looking at in deferring action, if we were to defer action on the Old Spanish Trail as a National historic trail? Do you have a time line?

Ms. STEVENSON. No, sir.

Senator CAMPBELL. None? Could be indefinite?

Ms. STEVENSON. I doubt if it would be indefinite. The administration is really committed to reducing the maintenance backlog, and they are very committed and pushing us very hard to make progress.

Senator CAMPBELL. What year did the study that you spoke about—to study President Reagan's boyhood home—pass before the actual bill to authorize it?

Ms. STEVENSON. I am sorry, I do not know that, sir. I would have to provide that.

Senator CAMPBELL. But I did understand you to say that, or maybe perhaps it was the chairman, that the Department did not support that but went along with it, because it was passed by Congress?

Ms. STEVENSON. Yes, sir. When something is authorized, whether or not we were in favor of it or against it at the time, we wholeheartedly take it under our wings.

Senator CAMPBELL. Well, I guess then the only question that remains is how hard are you going to fight it, and are we still going to be friends after we pass it.

Ms. STEVENSON. Senator Campbell, we will always be friends with you.

Senator CAMPBELL. All right, because we are going to try to pass it. I have to tell you, I have been waiting 7 years, as a lot of us have in the West, and we are going to try to move this thing, and hopefully we will be able to talk again about it.

Let me ask you a little broader question, if I still have a moment, Mr. Chairman. It deals with the broader picture of trails. I am involved, as my family is, my wife particularly, on a trail called The Continental Divide Trail. Are you familiar with that? Big trail.

Ms. STEVENSON. Yes, sir.

Senator CAMPBELL. We try to do a ride on it every year, we started just last year in Colorado—we are going to do one in Wyoming this year, hopefully, New Mexico next year, to draw attention to the importance of using the trails, and it has gotten a lot of support. Several people in the administration are going to go with us this year. Several of the Department heads are going to go with us, and we think it is great.

Just let me ask you a couple of questions about it. There was some question by Senator Thomas about willing seller. Do you know if there are people now willing to sell land or easements to help complete that Continental Divide Trail?

Ms. STEVENSON. I do not know, sir. I would have to provide that.

Senator CAMPBELL. Could you find that out for us, particularly me, and get back to me on that?

Ms. STEVENSON. Yes, sir.

Senator CAMPBELL. Also, these bills that we are dealing with today, are they in some kind of sync, would it help complete the Continental Divide National Scenic Trail?

Ms. STEVENSON. The nine historic scenic trails are the Continental Divide National Scenic Trail, the North Country National Scenic Trail, the Ice Age National Scenic Trail, the Oregon National Historic Trail, the Mormon Pioneer National Historic Trail, the Lewis and Clark National Historic Trail, the Iditarod National His-

toric Trail, the Potomac Heritage National Scenic Trail, and the Nez Perce National Historic Trail.

Senator CAMPBELL. Do those all, at some place, touch the Continental Divide Trail system?

Ms. STEVENSON. I don't believe that is true; no.

Senator CAMPBELL. Okay.

Ms. STEVENSON. Those are the ones that are not presently covered by the willing seller provision.

Senator CAMPBELL. Oh, I see. Okay. How many miles of that Continental Divide scenic trail go across private lands now? Do you have any idea?

Ms. STEVENSON. We will have to provide that to you.

Senator CAMPBELL. Would you please provide that for the committee, too?

Thank you, Mr. Chairman, I have no further questions.

Thank you, Kate.

Senator AKAKA. Thank you very much, Senator Campbell.

I have no further questions for you. I thank you very much for your responses.

Ms. STEVENSON. Thank you, Mr. Chairman.

Senator AKAKA. Our next witness is the Honorable Kelsey Begaye, the president of the Navajo Nation. President Begaye will testify on H.R. 1384, which would designate the route in Arizona and New Mexico which the Navajo and the Mescalero Apache Indian tribes were forced to walk in 1863 and 1864, for study for potential addition to the national trail system. President Begaye, welcome to the committee.

Mr. BEGAYE. Thank you, Mr. Chairman.

Senator AKAKA. Proceed with your statement.

Mr. BEGAYE. Yes, sir.

**STATEMENT OF KELSEY BEGAYE, PRESIDENT OF THE
NAVAJO NATION, WINDOW ROCK, AZ**

Mr. BEGAYE. Before I start, I would like to introduce an individual that is here in the room. Her name is Merlee Arviso, and she is the great-great granddaughter of Jesús Casuse Arviso, who was a treaty interpreter in 1868. Merlee—is she in the room?

Good afternoon, ladies and gentlemen. My name is Kelsey Begaye, president for the Navajo Nation. I want to thank Chairman Daniel Akaka and the rest of the subcommittee for providing the opportunity for the Navajo Nation to make this presentation before you. I am very honored to be here.

The Navajo Nation is pleased to present its viewpoints on H.R. 1384, the Long Walk National Historic Trail Study Act. The Navajo Nation supports the designation of the Navajo Long Walk Trail, so that the future generations of Navajos and other Americans will remember the historic page in American history, and that it will not happen again here in our homeland, the United States of America.

As you know, the Navajo people have a rich and proud history. Our history recounts the journey of our ancestors into the present world. It is in this world, Ni'hodis's, the Glittering World, that a fairly recent historical event challenged the Navajo people's very existence within the boundaries of the Sacred Mountains of the Navajo land.

As history provides, by the mid-1800's, the Navajo people, after approximately three centuries of unwelcome encroachment by the Spanish and the Mexican governments, the Europeans, and later, Americans, were reacting to the situation that was wearing away their culture and land base. This era is bitterly remembered as a dark page in Navajo history, when the United States set out to obliterate Navajo culture at a place known as Hweeldi, Bosque Redondo, or Fort Sumner, New Mexico.

In the mid-1800's, before, during, and after the Civil War, enslavement and slave trade of Navajo women and children was still practiced in the Southwest. The slave raids were led by Mexican and American settlers in retaliation for raids by Navajos and against the communities that surrounded the Navajo lands.

In 1849 and 1850, several failed peace negotiations with the U.S. Government led to a military campaign to subdue the Navajos. The U.S. Army would not tolerate any humane treatment of Navajo people who would not surrender. Realizing that Navajos could not be subjugated in their own land, the United States viewed removal as the only alternative.

In early 1860, the U.S. military posts in Navajo land, under the leadership of Brigadier General James H. Carleton, set the stage for the campaign against the Navajo people. More than 300 miles from the Navajo land was the desolate site to be chosen to confine the Navajo people, and force them to live according to the foreign laws of the U.S. Government.

Thousands of Navajos walked the entire distance of 350 miles to Fort Sumner under the watchful eyes of the U.S. military. The Navajos were held as prisoners of war for 4 years at Fort Sumner, New Mexico. Poor planning, drought conditions, severe winters, sickness, foreign diets, and continuous slave raids took its toll on the already suffering captive Navajos.

Finally, in the spring of 1868, the worn Navajo leaders sought to return to their land within the Sacred Mountains. The desire to return to their homeland kept the people alive. On June 1, 1868, a treaty was drawn to end this nightmare and allowed the Navajos to walk more than 350 miles back home.

Today, the Navajo Nation has approximately 298,000 members. The vast reservation is about 16 million acres. Many Navajo live in areas throughout the United States and around the world. The Navajo people will retain its language and many of their traditions. We are a proud people and we remember our history, the stories handed down by our ancestors and our forefathers about the ordeal at Fort Sumner.

With the enactment of H.R. 1384, the Long Walk National Historic Trails Study Act, the Navajo Nation urges Congress to work with the Navajo Nation in determining which Navajo Long Walk Trail route will be designated by this legislation. There were four primary routes used by the U.S. military during the Navajo removal.

The Navajo Nation also recommends that Congress mandate that the National Parks Service consult with the Navajo Nation regarding all interpretative materials, such as brochures, trail markers, and scenic off-ramps. The Navajo Nation urges Congress to add appropriations authorization language to the bill so that the Navajo

Nation and the National Parks Service are able to conduct the necessary research, consultation, and the maintenance of the Long Walk Trail.

The horrible accounts of this period in Navajo history are not openly discussed and/or readily shared by Navajo people. The long walk was certainly a test of Navajo fortitude, which remains in the shadows of American history. The proposed bill, H.R. 1384, Long Walk National Historic Trail Study Act, will ensure that this page of Navajo and American history will be remembered, and the Navajos who endured the long walk and incarceration at Hweeldi are well honored.

The Long Walk serves to remind society of the importance of cultural perseverance, and also designation as a national historic trail will help ensure that this portion of the Navajo's history will always be remembered. Hence, the Navajo Nation and its people support H.R. 1384, and respectfully request immediate adoption to memorialize this important era of American history.

Chairman Akaka and members of subcommittee, thank you for your consideration of this legislation.

Senator AKAKA. Thank you very much, President Begaye, for sharing your testimony with the subcommittee this afternoon.

One of your recommendations is that the Park Service defer to the Navajo Nation in determining which of the four primary routes should be designated. Would you please share your views as to whether the study look at all four routes for possible designation as a national historic trail, or should it be focused on one specific route?

Mr. BEGAYE. Mr. Chairman, and members of the subcommittee, I believe that that issue needs to continue to be discussed; however, the Navajo Nation, in consultation with our elders, would prefer a trail to be designated, one trail to be designated, and that we will have to go back and find out, sir.

Senator AKAKA. Well, thank you very much. That will be helpful to the committee.

Mr. BEGAYE. Thank you, sir.

Senator AKAKA. I thank you so much for being here this afternoon, and for your testimony. It will be helpful to us.

Mr. BEGAYE. Yes, sir. Thank you.

Senator AKAKA. Thank you very much.

Mr. BEGAYE. It is good to see you again, sir. If you have time, there is a reception tonight at the Mayflower. Thank you.

Senator AKAKA. Thank you very much.

Now, I would like to call on our last panel of witnesses to come forward: Shane Henry, assistant director for lands and energy, Colorado Department of Natural Resources; Patrick Hearty, national trails chair, National Pony Express Association; and, Dru Bower, vice president of Petroleum Association of Wyoming; Bill Watson, co-chair, Trails Liaison Committee, Oregon/California Trails Association; and Gary Werner, chair, Partnership for the National Trails.

Thank you very much for coming; welcome to the subcommittee and this hearing. May I first call on Shane Henry to give your statement?

**STATEMENT OF SHANE HENRY, ASSISTANT DIRECTOR FOR
LANDS AND ENERGY, COLORADO DEPARTMENT OF NATU-
RAL RESOURCES**

Mr. HENRY. Good afternoon, Mr. Chairman and members of the Subcommittee on National Parks. My name is Shane Henry, I am the assistant director of the Colorado Department of Natural Resources, and I am here today to testify in support of S. 1946, the designation of the Old Spanish Trail, and to also include the northern branch of that trail that goes through western Colorado, and picks up a lot of the communities in that area.

I would especially like to commend Senator Campbell for your tireless leadership you provided to this effort. Your diligence, patience, and proven commitment to making this designation a reality is certainly worth noting. I would also like to thank your colleagues from Colorado, Senator Allard, for his co-sponsorship of this bill, and Carson McGinnis, for their strong interest and effective support that they have given to the issue as well; and also to thank Senator Domenici for his sponsorship, as well.

It shows that it is a multi-state initiative, and the support is there to get this done after, as you said, 7 years of hard work. So, thank you very much. I would also like to thank Senator Hank Brown, who worked on this issue for a few years as well.

On behalf of Governor Bill Owens and the Colorado Department of Natural Resources, I offer Colorado's enthusiastic support for S. 1946. The State of Colorado recognizes the Old Spanish Trail and its northern branch as an important part of our State's rich and eventful history. For centuries, this well-traveled trading route from Santa Fe to Los Angeles provided abundant regional commerce from the earliest of times, from the Utes, Navajos, and Spanish explorers, to New Mexican traders, French-Canadian trappers, and American settlers, the Old Spanish Trail and its northern branch played a significant role in all the cultures that occupied the diverse West.

Whether it is reading through the journals of some of the most notable explorers who traveled this route, such as Fathers Dominguez and Escalante, Kit Carson, and Lieutenant George Brewerton, or just studying a historic map that shows the hundreds of communities and settlements this trail once served, there is no doubt as to the historical places this trail has in Colorado history. S. 1946 would finally grant this historic trading route the official recognition it richly deserves.

The Colorado Department of Natural Resources has been an avid supporter of this effort, going back to 1993, when our State parks board passed a resolution supporting historic trail designation of the Old Spanish Trail and its northern branch. The Department of Natural Resources and its Division of Colorado State Parks have followed closely the National Parks Services feasibility study and analysis. We have also supported the efforts of the Old Spanish Trail Association and the ad hoc committee of volunteers in Grand Junction, Colorado, whose remarkable determination is largely responsible for why we are all here today.

To reaffirm its support, Colorado State Parks, on September 22, 2000, unanimously adopted a resolution, recognizing the historical value of the Old Spanish Trail and its northern branch, and asked

for national historic trail designation by the Congress. I have included a copy of this resolution to be entered into the record as part of this testimony.*

Senator AKAKA. Yes, sir.

Mr. HENRY. The State of Colorado support for the designation is especially noteworthy today. As we speak, Governor Owens is announcing a proclamation designating 2002 as the Year of Trails in Colorado as a way to celebrate the recreational and historic values that our amazing network of trails offers to Colorado citizens and its visitors. I can tell you, the prospect of adding the Old Spanish Trail and its northern branch to the list of national historic trails, in the same year that Colorado is gearing up for its promotion of State trails, is very exciting to Governor Owens and the State of Colorado.

Colorado recognizes the numerous educational benefits and opportunities for historic interpretation this designation will provide the citizens of Colorado. Perhaps just as important is the national perspective this designation would give to State and local educational programs for use in schools, as they fill in the large gap in the national historic trails map of the United States.

For all these reasons, Mr. Chairman, and members of the subcommittee, the State of Colorado is proud to lend its support to the important designation effort. Designation of the Old Spanish Trail and its northern branch has the support of Governor Owens, the Colorado General Assembly, the Department of National Resources, CLUB 20, Mesa County, the city of Grand Junction, and many other communities along the trail in western Colorado. We hope this committee, and ultimately Congress as a whole, will support this locally driven, multi-State initiative and move with all deliberate speed to bring about its designation this year.

Just quickly to address the financial concerns we heard from the administration, I would just offer, at least from Colorado's perspective, I do not know for the other States, but there are numerous volunteer groups up and down this trail that have already spent a tremendous amount of time researching the trail, going out, putting out markers, and the cost of implementing this trail over time, there would be a swarm of volunteers that would come out and I think will reduce any serious cost in terms of having this trail officially designated as a National historic trail. I think we could address that quite easily, in fact.

Thank you for giving me the opportunity to testify in this important matter.

Senator AKAKA. Thank you very much, Mr. Henry.

May I call now on Bill Watson for your testimony?

STATEMENT OF WILLIAM C. WATSON, CO-CHAIR, TRAILS LIAISON COMMITTEE, OREGON/CALIFORNIA TRAILS ASSOCIATION, ORINDA, CA

Mr. WATSON. Thank you, Mr. Chairman, and members of the subcommittee.

National historic trails are different from scenic trails, because where scenic trails are point-to-point, and walkable from end to

*The resolution can be found in the appendix.

end, an historic trail is not hikeable all the way through. It consists of a series of significant sites and segments connected by highway, and along the way we have historically significant cutoffs and alternates.

The bills, S. 213/H.R. 37, do not change the right of private land owners to do what they want to do with their property. If they close the land for trail use, the historic trail, under the act, follows the adjacent road or highway to the next open segment. We are proud to announce that every year we give awards to families who preserve the trail on their land.

Congressman Bereuter, from Nebraska, in his House testimony, emphasized that there is no condemnation of private lands or Federal leases contemplated to add any of these routes that we have requested to be studied to the trails. This bill does not change the long-standing Federal rules on public land that ban drilling within a quarter of a mile of trail ruts.

The Oregon-California Trails Association has a long history of working with energy companies and others along the trails. In 1985, our Wyoming members worked with Exxon on a proposed above-ground hot sulphur pipeline that would have criss-crossed the trail a number of times. Our members worked with Exxon. They voluntarily altered the plan so that it only crosses the trail once, and they wrote up this cooperative effort in their company magazine.

Currently, in Wyoming, our members are working with Wolverine Oil and the Shell Oil Company, who are drilling on new sites visible to the Oregon and California trails. Oil companies have volunteered to use 11-foot tanks on new sites, compared to 20-foot tanks on existing sites, and to paint them to match the terrain. And they have offered that, where feasible, they will drill behind walk-out croppings rather than on top.

Yesterday and today, our members are holding a preservation workshop on how better to preserve the trail in the communities. They are in Salt Lake City, and we have representatives of Wolverine, Shell Oil, the Wyoming Petroleum Association, and a drilling consulting firm on the agenda to educate our members about the needs of the energy industry.

I want to acknowledge today representatives of the Trail of Tears and Cherokee Nation who are here to support the Cherokee Trail for addition to the California National Historic Trail. We have President Jack Baker, Mary Tidwell, and David Raybow, accompanied by their Parks Service superintendent, Mary Bomar. I would also like to acknowledge my wife for her help and support in this testimony, and thank you for your time.

[The prepared statement of Mr. Watson follows:]

PREPARED STATEMENT OF WILLIAM C. WATSON, CO-CHAIR, TRAILS LIAISON
COMMITTEE, OREGON/CALIFORNIA TRAILS ASSOCIATION, ORINDA, CA

Chairman Akaka, Ranking Member Thomas, other Subcommittee members and guests, thank you very much for this opportunity to testify before your distinguished Subcommittee. During 2001, Oregon-California Trails Assn. (OCTA) members donated 50,021 hours and \$303,000 in volunteer expenses to our trails with a total value of over \$1 million. OCTA joins with the National Pony Express Assn., Mormon Trails Assn. and Iowa Mormon Trails Assn. to jointly urge you to approve S. 213/H.R. 37 to authorize to Updated Feasibility Studies for our four trails.

I would like to re-emphasize several key points made in the testimony of Congressman Doug Bereuter supporting H.R. 37 which the House unanimously passed on June 6, 2001:

"This legislation should be non-controversial, as it would simply recognize the fact that there are additional routes and cutoffs which may deserve inclusion in the National Trails System."

"No condemnation of private lands or Federal leases is to be contemplated to add any of these routes to the trails."

"Although the National Park service is supportive of efforts to examine these additional routes, it has determined that congressional legislation is needed to provide authorization."

OCTA recognizes that not every route proposed for study will meet the criteria of the National Trails Act and qualify for inclusion in the National Trails System. Thousands of volunteer hours have been spent researching and retracing Oregon and California routes propose for study. Some study routes already share an established National Historic Trail so would add markers not miles to the National Trails System. (See yellow lines on NPS Maps A and B.)

OCTA/PRIVATE LANDOWNER COOPERATION

The Oregon-California Trails Assn. (OCTA) works with private landowners, calling attention to the importance of the overland trails, obtaining permission to mark trail ruts and emigrant graves, and requesting access to trail sites for special occasions. Activities on private land are with the concurrence of the land owner/manager/lease holder. Each year, OCTA "Friend of the Trails" awards are presented to private landowners who preserve trail ruts and/or sites as part of their family heritage.

The National Trails Act provides private landowners an opportunity for Site Certification. If the landowner elects Certification, an agreement is signed with the Park Service which specifies public access: every day; one day a year and what date; no public access. Many private landowners have become participants in Certification since the 1986 designation of the Oregon Trail and 1992 designation of the California & Pony Express Trails.

Our KANZA Chapter in northeast Kansas worked with private landowners and the Park Service using side-scan radar for archeological research of four emigrant grave sites without disturbing the ground. Like many private landowners, these ranch families have protected the graves for 160 years. At the end of the first day, the ranchers hosted a team pot luck dinner and KANZA members hosted the next night.

Each year OCTA holds a convention at a different place along the trail. This August it will be in Reno, NV., and include trail tours, many requiring 4-wheel drive. Host chapter members work closely with private and public landowners to make these tours possible. It is always a thrill to have local families show us the trail remnants across their land and to hear their history.

Issue

Misunderstandings have caused concerns that S. 213/H.R. 37 are in conflict with America's energy needs. Trail protection, energy development and grazing have co-existed on public lands for many years under the National Trails System Act. Energy and Travel & Tourism are major industries in the economy of most trail states. Tourism is encouraged by federal, state and local support for the soon to open Casper, WY, trails center and the center being developed in Elko, NV.

OCTA Cooperation With Energy Developers

In 1985, OCTA members worked with Exxon to minimize the number of times a planned pipeline would cross the Oregon Trail near South Pass. This cooperative effort was featured in the Exxon employees magazine.

In March 2001, BLM, NPS, OCTA, Wyoming SHPO and Wolverine Gas & Oil representatives met in Rock Springs, WY, to discuss proposed exploratory drilling of wells near the Sandy Crossing and South Pass on BLM lands adjacent to the Oregon, California, Mormon Pioneer and Pony Express National Historic Trails.

Over lunch the Wolverine President and Dick Ackerman, then OCTA's Preservation Officer, discussed mutual concerns including a group of protest letters written by students about this planned drilling near South Pass. During the discussion, Wolverine proposed that where drilling would be detrimental to the trail they could drill laterally and be at least 1/4 mile from the trail as required by the BLM rules. For new sites within view of the trail, Wolverine volunteered to minimize the impact of activities by drilling behind a bluff rather than on top of it and to use low profile (11 foot high) storage tanks painted to match the setting. An existing BLM road

across the trail could be used to move equipment and supplies. It was agreed that 20 foot high tanks on existing sites will not be replaced. Partner Shell Oil concurred.

OCTA's Dick Ackerman met with students and told them not to blame Wolverine for working in historic South Pass because they were helping solve America's energy problem. He shared their concerns about protecting the trails and assured them that all participants will work together to minimize the trails impact. As Ackerman noted: "Early travelers over this dirty, dusty, rocky ribbon of a trail made a difference. They were settling the Pacific frontier and with these settlements made our country the ocean to ocean Nation that it is today. Today's travelers can share the pioneer experience. They can stand there and look both ways and try to imagine what it was like for those early travelers. This is why we need to do our best to keep it looking the same."

Last year, OCTA CA/NV chapter members worked with the U.S. Senate staff and the Nevada BLM to plan and create the Black Rock/High Rock National Conservation Area legislation that protects the California and Oregon Trails in Nevada while allowing continued multiple use of those lands. Today, OCTA chapter members continue their work with the BLM to plan and implement this Nevada National Conservation Area.

CALIFORNIA NATIONAL HISTORIC TRAIL—MISSOURI VALLEY ROUTES

The 1987 California Trail Feasibility and Desirability Study assumed that: "Most of these ruts and traces are west of Casper, Wyoming . . ." Subsequent extensive diary research plus ground searches by OCTA members located numerous swales, ruts, remanent of river and creek crossings, etc. in the Missouri Valley. Many of these new sites are on private land and have been preserved for 160 years as part of the proud landowners' family heritage. OCTA's research identified 19 Missouri Valley routes, shown in green on NPS maps A and B, that are proposed for study under S. 213/H.R. 37. Most will be multi-use shared routes. For instance, OCTA/NPEA research indicates that Fort Leavenworth to Big Blue River Route was used by Oregon and California bound emigrants and Pony Express riders.

CENTRAL ROUTES

Seven Central Routes proposed for study, shown in green, include the Cherokee Trail which has not been designated a National Trail. Because of its significance, the Cherokee is marked and preserved in Wyoming by the BLM and OCTA volunteers. The Cherokee Trail was under study and included in the draft California Trail Comprehensive Management Plan until a Solicitor's Opinion dropped it from the CMP. While under study, the Governor of Oklahoma wrote a letter to NPS Director Bob Stanton supporting the designation of the Cherokee Trail as a branch of the California National Historic Trail.

The Cherokee Trail was used by native Americans, Anglos and blacks from Oklahoma Territory who went west for the California gold rush. The Cherokee Trail segment from Rawlins, WY, to Fort Bridger received heavy use by Mormon pioneers during the 1860s, making this a shared route. One segment of the Cherokee Trail shares the Santa Fe National Historic Trail. OCTA contributed \$5,000 toward BLM purchase of new concrete markers for the Cherokee Trail in 2000 that were installed by OCTA volunteers and the BLM. If the Cherokee Trail qualifies as a California trail route, it will not significantly increase the number of trail miles on Wyoming BLM land.

We are honored to have President Jack Baker, Mary Tidwell and Paul Austin from the Trail of Tears Assn. at this hearing to show Cherokee Nation support for passage of S. 213/H.R. 37 and the inclusion of the Cherokee Trail as a California Trail route.

WESTERN ROUTES

Eight Western routes, shown in green on NPS maps A and B, are proposed for study under S. 213/H.R. 37. Most of them were omitted from the original Feasibility Study or were ordered deleted from the Comprehensive Management Plan.

For example, the Solicitor's Order deleted the Bidwell-Bartleson Route from the California Trail Comprehensive Management Plan. On May 12, 1851, the Bidwell-Bartleson Company left from the Kansas City area. They did not have a map showing the way to California, because none existed. Thirty-one men, one woman (Mrs. Nancy Kelsey) and her infant daughter followed the Oregon Trail. About 560 miles beyond Fort Laramie, they left the Oregon Trail to find a route across the unknown territory stretching to California. After leaving their wagons in the desert and wandering lost for days, the Bidwell-Bartleson party finally reached the Sierra Nevada mountains. They crossed some where near present day Sonora Pass and arrived in

California on October 30, 1891. The accomplishments of the Bidwell-Bartleson company, including those of Nancy Kelsey, who became the first white woman to cross the Sierras, are widely celebrated. The year 2002 is an excellent time to pass S. 213/H.R. 37 and recognize the 161st anniversary of the first overland pioneers to reach California.

CALIFORNIA EXAMPLE OF MULTIPLE USE OF FEDERAL TRAIL LANDS

The Carson Route, a branch of the California Trail, was developed from west to east in 1848 by the Mormon Battalion as an easier route over the Sierra than the Truckee/Donner Route. A 71-mile long portion from Genoa, Nevada, to Union House, Calif., is a High Potential Segment where today travelers can still share some of the emigrant experience. For about 35 years, our family has worked to preserve and interpret about half this segment. In Hope Valley, the Big Trees Route (proposed for study) cuts southwest from the Carson. It was used by many gold seekers headed for the southern mines.

Most of Hope Valley, just south of Lake Tahoe, has been turned into a hiking, fishing, and hunting preserve created on private land sold to the government at cattle grazing (not recreation subdivision) prices. Last year, a handicapped access site was developed with parking and rest room facilities to provide public access for fishing and to the tracks of the Carson Route, California Trail. One rancher closed his land to public access so the trail follows Highway 88 around his property. Hope Valley has a group campground reserved for campers, RVs, etc.

In Eldorado National Forest, the Carson Route (California Trail) from Caples Lake up to Covered Wagon Summit is open for hiking and horseback in summer and skiers in winter. Kirkwood Mountain Resort's trail signs on ski lift towers and an interpretive sign near the main lodge educate skiers about the Trail. A Forest Service/Kirkwood Mountain/OCTA plan will create a new off-the-ruts wild flower trail for hiking & horseback plus provide additional mountain bike trails off the Carson Route. A future project will install an unobtrusive tow to allow skiers to go down "Emigrant Run", the snow covered ruts of the covered wagons.

The segment from Caples Lake up to Emigrant Valley is marked and maintained by Kirkwood Mountain Resort Homeowners. Our family works every summer as Forest Service Adopt-A-Trail volunteers marking and maintaining the top 2½ miles segment from Emigrant Valley (elev. 8,000 ft) up to Covered Wagon Summit and West Pass (elev. 9,600 ft.) In late June, we again will have three generations working on our adopted trail. From the Summit down to Tragedy Springs the trail has been used by high clearance vehicles since 1946 and is maintained by a 4-Wheel Drive Club. It is open for hikers, horseback riders, hand carts, mountain bikes and motorized vehicles including ATVs in summer and crossed by snowmobiles in winter. Cattle graze on parts of both trail segments in summer.

From Tragedy Spring, the Carson Route cuts northwest to "Hang Town" (now Placerville). The Volcano Road study route runs west from Tragedy Spring to the Volcano gold rush town where Union sympathizers during the Civil War used a cannon to protect gold bullion from possible seizure by Confederate sympathizers.

SHARED CALIFORNIA & OREGON NATIONAL HISTORIC TRAILS

California was the first designated multi-route National Historic Trail. Oregon was designated a point-to-point National Historic Trail with two alternate routes. Seven California NHT routes are proposed for study in S. 213/H.R. 37 based upon the Comprehensive Management Plan report that routes were shared by emigrants bound for Oregon. Plans to study these shared Oregon Routes, shown in red and yellow on NPS maps A and B, if recommended, would not add route miles but would allow Oregon NHT markers to be added by OCTA volunteers.

The Applegate Route of the California NHT illustrates the problems created by the Solicitor's Order. The Applegate was used during the California gold rush and also was the Southern route to Oregon. It crosses 300 miles through Southern Oregon, yet Oregon NHT markers can not be installed. Our Oregon OCTA members urge: "Please pass S. 213/H.R. 37 so we can put an Oregon NHT marker on the interpretive sign outside the Oregon State House in Salem." Today it reads "California National Historic Trail". Designating these Shared Routes adds other trail logos, not miles.

CENSUS OF EMIGRANT DOCUMENTS (COED)

Oregon-California Trails Assn. members developed the Census Of Emigrant Documents (COED) database which currently contains information from 2,263 emigrant diaries, letters and reminiscences about their trips along these trails. Research and entry data documentation is done by OCTA and historical society volunteers. Some

64,271 emigrant names are currently contained in OCTA's COED database. This database is already being searched for emigrant quotes about the routes proposed for study under S. 213/H.R. 37. This data base is also available for genealogical research by members and the public through the OCTA headquarters in Independence, MO.

FOUR TRAILS GIS DATABASE

University of Utah is developing and operating the California, Oregon, Mormon Pioneer and Pony Express Trails GIS Database under contract with the National Park Service Long Distance Trails Office in Salt Lake City. 95% of the initial Four Trails GPS mapping was done by volunteers using a variety of equipment, requiring different calibrations and adjustments, which complicated GIS database development.

During last year's extreme fire emergency, this Database provided computer map files identifying our Four Trails routes including significant sites and segments for use by Interagency Fire Control Center in Boise, ID. To our knowledge, none of these significant sites and segments identified for our four trails were damaged by fire. A number of wooden BLM Cherokee Trail markers were destroyed by wild fire. This route is not yet eligible for inclusion in the Four Trails GIS Database.

OCTA is using National Park Service Challenge Cost Share dollars to purchase sophisticated GPS units and the NPS provides volunteer training on their use. With more sophisticated data in the future, the Four Trails GIS Database will be able to pinpoint the location of Significant Sites and Segments, interpretive signs and kiosks, and the location of installed trail markers for tracking purposes.

HISTORIC TRAILS TO THE "OREGON COUNTRY"

Testimony supporting S. 213/H.R. 37 for March 7, 2002, hearing of the Senate Energy and Natural Resources Sub-Committee on National Parks. Prepared by Jeanne H. Watson, Oregon-California Trails Association (OCTA) past Director, Co-chair, Trails Liaison Committee, and U.S. Forest Service Adopt-A-Trail volunteer.

In 1978, when the Oregon Trail was designated a National Historic Trail, it was generally considered to be a point-to-point route. Not exactly . . . While there are two alternates, one in Idaho and the other in Oregon, other pioneer trails to the Oregon Territory have been overlooked. In 1995 Oregon House Bill 2966 recognized five routes as "alternates" of the Oregon Trail. Listed separately in this bill, the "Applegate (California) National Historic Trail", was designated in 1992 as part of the California National Historic Trail. Two other routes, used by pioneers crossing Oregon to settle in present-day Washington State, may be eligible for National Historic Trail designation. Three additional routes in Idaho are also considered cross-country segments of the Oregon National Historic Trail.

In Wyoming, the Cherokee-Overland Trail was used by pioneers from southeastern states to reach the Oregon-California Trail at Fort Bridger and starting in 1852 many continued to Oregon. There are also a number of shorter trails leading from the Missouri River to the "Great Platte River Road" as well as others followed by emigrants to Oregon and California that are significant in state and local history.

Passage of S. 213/H.R. 37 will allow Feasibility and Suitability Studies to be made of these routes in order to determine if they are eligible for addition to the National Historic Trails system.

(1) It seems rather ironic that the route of the first Oregon pioneers has not been designated as part of the Oregon Trail. For years the Whitman Mission Route, first traveled in 1836, was THE Oregon Trail. As Narcissa Whitman wrote in 1840: "We are emphatically situated on the highway between the States and the Columbia River." Narcissa and her husband, Dr. Marcus Whitman, along with the Rev. Henry Spaulding and wife, Eliza, were Presbyterian missionaries from upper New York State. Narcissa and Eliza, the first white women to cross the Rocky Mountains, are remembered with a special marker at South Pass. Their company took a two-wheel cart to Oregon, proving wheeled vehicles could make the trip successfully. The Whitman Mission Route served as the main stem of the Oregon Trail during the earliest years of the mass overland migrations but later bypassed and so omitted from the 1978 designated Oregon National Historic Trail.

The Whitman Mission National Historic Site at Walla Walla, WA, interprets this trail story and its link with Native Americans as do signs by the Oregon Trail Coordinating Council. Exhibits also interpret this history at Tamastslikt Cultural Institute on the Umatilla Indian Reservation near Pendleton, OR.

(2) In 1843-44, the Upper Columbia River Route became the only trail to the Willamette Valley. A day's horseback journey west of the Whitman Mission, it started at a Hudson Bay Company post, where emigrants built rafts to float down the river

to The Dalles, a treacherous trip with loss of lives and belongings. The Applegate family experienced such tragedy in 1843 when the river claimed the lives of two 10-year-old cousins and another family member as a boat upset in a whirlpool.

Emigrants could avoid the river by traveling along the bank, negotiating steep cliffs and rocky shorelines. In 1844 Oregon emigrants found a way to bypass the Whitman Mission completely by following the Umatilla River to the Columbia, saving several days of travel. By the late 1840s, use declined as emigrants followed new routes across the desert south of the river.

Oregon Trail Coordinating Council signs interpret this route at two kiosks and it is included in exhibits at the Columbia Gorge Discovery Center in The Dalles.

(3) Although listed as part of the California and Pony Express National Historic Trails in 1992, the Applegate Route has never been included as part of Oregon National Historic Trail. Although also known as the Southern Route to Oregon, it can only be marked with California Trail signs, including one near the state capitol in Salem, Oregon. Pioneers traveling this southern route left the Oregon Trail at the Raft River, to continue towards California before turning north across Nevada to Oregon.

The Applegate route, opened in 1846 by brothers Jesse and Lindsay Applegate to avoid the Columbia River, served as an alternate southern route; opened from west to east it met the California Trail along the Humboldt River. Jesse Applegate led the first company of 200 Oregon pioneers with nearly 100 wagons. The route was used by both Oregon pioneers and California-bound emigrants, who turned off to reach northern California. After the 1848 discovery of gold, Oregonians followed the Applegate Route to reach the northern California mines via the Lassen Cutoff. Peter Burnett (later governor of California) led 150 pioneers with 50 wagons from Oregon City, taking the first wheeled vehicles to Peter Lassen's ranch in the Sacramento Valley. Although used for a decade, the Burnett Cutoff is not designated as part of any National Historic Trail. Neither is the 1852 trail, which leads from the Applegate route south of lower Klamath Lake to the Yreka (CA) area. As "shared routes," the Applegate Trail and these cutoffs should be marked as part of both the Oregon and California National Historic Trails while adding no new miles.

The Applegate Trail winds through the recently established Black Rock Desert and High Rock Canyon National Conservation Area in Nevada. Interpretation also includes 18 signs placed along the route in Oregon by the Applegate Trail Coalition with support from the Oregon Trails Coordinating Council to complement existing signs, exhibits and commemorative markers. Museums and historical societies in southern counties of Oregon have cooperated in publication of a trail guide for this Southern Route.

(4) The Oregon Legislative Assembly proclaimed 1995 as the "Year of the Meek Cutoff Trail," opened 150 years earlier by 1,000 persons with 200 wagons. This route, named for leader Stephen Meek, crossed the middle of Oregon through high desert to the central Cascade mountains. It is the most infamous of Oregon Trail routes because the company became lost and could not find water; at least 23 persons died during the 52-day ordeal. Rescue parties were sent from The Dalles, with help from mountain man Moses "Black" Harris. The Meek Cutoff is interpreted with several Oregon historical markers and BLM signs along the route and an exhibit at the High Desert Museum in Bend, OR.

(5) An Oregon Trail route used from 1848 to 1884, this 1847 Cutoff to the Barlow Road made it easier for emigrants to cross the Cascades to Oregon City. The Cutoff saved 100 miles as well as a week of travel time but could require three days to cross the Deschutes River before a bridge was built in 1852. (The Barlow Road section of the Oregon National Historic Trail provided an alternative route around Mount Hood.) This Cutoff is interpreted with BLM signs, an Oregon Trails Coordinating Council kiosk and Oregon historic markers as well as driving tours and brochures by the Sherman County Historical Society.

(6) The Free Emigrant Road, opened in 1853, followed part of the Meek cutoff before turning south and then west to continue north to settlements at Eugene City. The Elijah Elliott train with 215 wagons successfully crossed the desert in 1853 but became stranded in the Cascade Mountains. A 70-mile water less stretch followed by October snow and freezing mountain temperatures required rescue by a relief party. In 1854, William Macy succeeded in leading 121 wagons across both the desert and the Cascades following the newly completed Free Emigrant Road, so named because no toll was charged (unlike the Barlow Road). The road continued to be used through the 1860s with nearly 500 wagons and 2,500 persons traveling to the Willamette Valley. To date no interpretive facilities exist. As Charlotte Pengra commented in 1853 "all are afraid to try it" because at that time nothing was known about the route.

(7) Established in 1845, the Cowlitz River Route led from the river's headwaters to the southern tip of Puget Sound. Among early settlers were the first black emigrants to the Pacific Northwest, including the founder of the present-day Centralia. Ezra Meeker, who followed this trail in 1852, became the first Oregon Trail preservationist when he realized in 1906 the pioneer trail was fast disappearing. He found an old wagon (exhibited at Washington State Historical Museum in Tacoma) and began retracing the trail with an ox team. Meeker presented programs and put up commemorative markers, with school children often contributing pennies. Many of his markers still survive including one at South Pass. Upon reaching the east coast Meeker drove his wagon down Wall Street in New York City and later parked on the lawn of the Capitol in Washington DC. His preservation efforts to save the trail also included trips along the Oregon Trail by car, train and airplane. Today his markers still interpret this trail.

(8) Connecting Fort Walla Walla (site of the Whitman Mission) to the Puget Sound, the Naches Pass Trail was opened in 1853. It bypassed both the Columbia River and the Willamette Valley and was known as the "Walla Walla to Steilacoom Pioneer Citizen's Trail." Although it required 68 river crossings, it saved 200 miles of travel. The existing trail was improved for wagon travel in 1853 when Congress appropriated \$20,000 and Captain George McClellan (future Civil War general) supervised clearing it for military use. Ezra Meeker, who traveled the Oregon Trail six times, followed this route in 1854. In 1910, the Washington and Oregon Historical Societies joined to mark the Naches Pass Trail. Other interpretive activities include signs at various sites.

(9) In Idaho the Northside Alternate followed the north side of the Snake River from the vicinity of Fort Hall, passing Shoshone Falls, to the Thousand Springs area where it connected with the North Alternate Oregon Trail (see #10). The first Bishop to Oregon followed this route in 1847 on horseback, while his wagons took the trail south of the river to Three Island Crossing. In 1852 Dr. Thomas White found travel along this northwest route to Fort Boise "shortened nearly in half" the distance and also had provided better grass and water. In 1993 a BLM and Idaho State Historical Society trails publication stated additional research was needed to determine trail usage but surface evidence plus early township survey plats indicate heavy wagon travel.

(10) In 1852 a ferry established above Salmon Falls in Idaho made it possible for emigrants to cross the Snake River to the north side. At Teapot Dome this route followed the main trail to Boise. Known as the North Alternate, in 1847 the Northside Alternate (#9) connected with it while in 1869 Kelton Road, a freight and stage route, used it. The North Alternate avoided a dry and difficult stretch of the Oregon Trail from Salmon Falls across the desert to Three Island Crossing, where it became the main northern route. The North Alternate is interpreted at Malad Gorge State Park with additional segments marked by the Hagerman Historical Society. BLM white posts also mark this route, determined to be eligible for listing on the National Register of Historic Places. The Oregon Trail story in this region is also interpreted by a BLM site and park at Bonneville Point.

(11) The Goodale Cutoff began on the north side of the Snake River at Ft. Hall in Idaho and rejoined the Oregon Trail south of Boise Valley on the north side of the Snake River. It crossed the Lost River and Camus Prairie following a traditional Shoshone Indian route, avoiding an Oregon Trail loop along the Snake River. It was named for Tim Goodale, a trader in the Snake Country, who lead a large combined wagon train in 1862 across this route [known as the Jeffrey Cutoff in 1853-54]. According to Nellie Slater the 1862 company consisted of 1,238 wagons with 998 men and 300 women and children. This Cutoff required a "dreaded drive" through ankle-deep dust before reaching good water and feed on the Camus Prairie, according to Julius Merrill in 1864. It followed the perimeter of Craters of the Moon National Monument Area and is included in the National Register of Historic Places. Wagons followed the Goodale Cutoff as late as 1904. Later Goodale opened a north-west continuation of his Cutoff, crossing the Powder River to join the Oregon Trail below Flagstaff Hill near Baker City, Oregon. Preservation includes granite highway markers plus marking on public lands by BLM and the OCTA-Idaho chapter. It was added to the 1990 official Idaho highway map. In 1994 covered wagons rolled along this route during a sesquicentennial re-enactment, and along several Oregon Trail routes.

(12) Pioneers from the southeast and the south followed the Cherokee-Overland Trail in Wyoming to reach the main route of the Oregon-California Trail at Fort Bridger. They came primarily from Arkansas, Oklahoma, Missouri, Tennessee and Texas. Not as crowded as other trails, the Cherokee route provided more grass for livestock while cholera did not threaten as on other trails. Cherokee Trail emigrants followed part of the Santa Fe Trail before turning north through Colorado to Wyo-

ming. Emigrants from Cherokee and white communities traveled together with the trail opened in 1849 by the Evans/Cherokee Company of 40 wagons, the first to cross the Hasting Cutoff that year. Among the company's officers were members of the Cherokee Nation.

In June 1850, Thomas Fitzpatrick (mountain man, explorer and Indian agent) reported 200 Cherokees with 60 wagons on the trail. Also in 1850, Captain Howard Stansbury of the U.S. Topographical Engineers surveyed the Cherokee Trail in southwest Wyoming. Many Cherokee gold rush pioneers followed the Applegate Trail but turned off at the Lassen Cutoff, leading to the northern California gold mines.

Oregon emigrants began using the Cherokee-Overland Trail in 1852 while Mormons from Texas followed it to Utah beginning in 1853. In 1862 the Overland Stage Company followed the Cherokee Trail, adding "Overland" to its name. Mormon pioneers in the "Out and Back" companies traveled this route in the 1860s from the end of the railroad in Rawlins, WY, to Salt Lake City. The Cherokee-Overland Trail has been marked in Wyoming by the BLM and historic signs are located in Kansas and California.

In conclusion, the Oregon-California Trails Assn. officers, directors and 4,200 members join with us to urge this Senate Energy & Natural Resources Subcommittee on National Parks to endorse S. 213/H.R. 37.

By the way, in 2001, OCTA members contributed 50,021 hours plus \$303,900. in expenses to our trails with a total value of just over \$1 million. Their 2000 contributions also exceeded \$1 million in value.

Thank you for your time. If you have any questions, we will gladly try to answer them or get answers for you.

Senator AKAKA. Thank you very much, Mr. Watson.

We welcome those of you that you just introduced to the committee. I would like to call on Mr. Patrick Hearty for his statement.

STATEMENT OF PATRICK HEARTY, NATIONAL TRAILS COMMITTEE CHAIR, NATIONAL PONY EXPRESS ASSOCIATION, SOUTH JORDAN, UT

Mr. HEARTY. Thank you, Mr. Chairman.

I would like to thank Senator Hatch for his kind introduction, and also acknowledge the representatives from the Cherokee Nation. I would like to speak on behalf of S. 213 and H.R. 37, which will impact four National Historic Trails; namely, the Oregon, California, Mormon Pioneer, and Pony Express Trails, and in the time allotted, I would like to offer three thoughts regarding this bill.

First, I would like to emphasize the importance to expand the scope of these national trails, and Senator Hatch has already discussed some of the inadequacies of the Mormon Pioneer Trail. As presently constituted, it includes only the 1846 and 1847 route followed by Brigham Young, with his initial party, called the Vanguard Company. Subsequent groups of Mormon pioneers crossing Iowa traveled well to the north on trails shared by other westbound immigrants.

The routes traveled by hand-cart companies are similarly not included in the National historic trail as it presently exists. In Wyoming, the Trail of Wagon Trains sent down from Great Salt Lake City to pick up immigrants at the trail head, called the down-and-back companies, is not recognized. Their trail follows a portion of the Cherokee Trail.

In all, an estimated 70,000 members of the Church of Jesus Christ of Latter Day Saints traveled the immigrant trails to Utah prior to 1869, when the Transcontinental Railroad was completed. The present Mormon Pioneer Trail adequately tells the story of less than 200.

Second, I wish to reassure you that the establishment of National Historic Trails is in no way detrimental to the rights of private land owners along the trail. The National Pony Express Association goes to great lengths to maintain good relations with both private and public land owners and managers. We conduct an annual horseback re-enactment along the Pony Express Trail. A leather mail pouch, or mochila, is relayed nearly 2,000 miles between St. Joseph, Missouri, and Sacramento, California.

A significant number of the more than 500 participants in our rides are farmers and ranchers along the trail. For example, in western Utah, three generations of the David Bagley family ride and carry the mail at Willow Springs Ranch in Calio, where stands an original Pony Express Association. In Nebraska, farmers like Scott Wolfe and Leonard Hilton are leaders within our organization. They and others have been known to literally shut off the tractor, saddle a horse to take part in the re-ride, then put up the horse and return to the tractor. The Pony Express National Historic Trail is a source of pride to those who live and work on the land where the history was made.

We are committed to the belief that, through cooperation and some compromise, the needs of commercial enterprises such as energy companies, ranchers, and others can be balanced with those seeking recreation, and those of us working to protect our history and heritage. Access to private land must remain entirely under the control of the land owners. We have no desire to see unreasonable impediments to energy development. Multiple use is the key to successful management of public lands.

Finally, I would like to remind you of the importance of preserving our heritage through such vehicles as the National Historic Trails. In an increasingly hectic and fast-paced world, there is a need and a yearning to connect with simpler times. This connection can be found on the trails of our pioneer forebearers.

Many young people seem to lack a sense of where they belong in the world in terms of time and place. Some turn to violence and self-destructive behavior in their search for identity. The historic trails can offer them an opportunity to learn through experience and feeling what has gone before them, and hopefully help them to gain an understanding of who they are and where they are going.

If I may interject a personal note, I had the privilege and honor to carry the Olympic torch on horseback for approximately 2 miles along the Pony Express National Historic Trail in western Utah, and I point to this as an example of how remarkable things can come to very ordinary people through our National trails.

Finally, we have been advised that these matters concerning the trails should be completed during this session of Congress. Our friends do not wish to see it brought back next year, and we have no wish to bring it back; therefore, I respectfully request your favorable consideration for S. 213 and H.R. 35 to preserve and protect the National Historic Trails.

Thank you, sir.

[The prepared statement of Mr. Hearty follows:]

PREPARED STATEMENT OF PATRICK HEARTY, NATIONAL TRAILS COMMITTEE CHAIR,
NATIONAL PONY EXPRESS ASSOCIATION, SOUTH JORDAN, UT

Chairman Akaka and distinguished members of the Senate Subcommittee on National Parks, I am grateful for the opportunity to testify in favor of S. 213, a bill which would amend the National Trails System Act to allow an update of the feasibility and suitability studies of four long distance National Historic Trails, providing for possible additions to these trails. The National Pony Express Association is pleased to support this legislation.

S. 213 would allow study of the feasibility and suitability of additional routes and variants of the four long distance National Historic Trails administered by the National Park Service Long Distance Trails Office in Salt Lake City, Utah. The trails affected are the Oregon, California, Mormon Pioneer, and Pony Express National Historic Trails. The effect of this legislation would be to provide the Secretary of the Interior with information regarding the appropriateness of inclusion of additional routes and cutoffs as part of the officially designated National Historic Trails.

The origins of the problems with these trails as presently designated have been documented elsewhere and will not be reiterated here (see the testimony of Jere L. Krakow, Superintendent of the NPS Long Distance Trails Office). I would first like to discuss the commitment of the National Pony Express Association to commemoration and marking of the Pony Express National Historic Trail, and to the promulgation of the history of the great enterprise we know as the Pony Express.

The National Pony Express Association (NPEA) was incorporated in California in 1978, "organized for the perpetuation and recognition of the historical running of the Pony Express." Our major activity each year is a horseback re-enactment of the Pony Express, wherein a leather mail pouch, or "mochila," is relayed over approximately 2000 miles between St. Joseph, MO, and Sacramento, CA. Participants come primarily from the eight states crossed by the Pony Express Trail, but also include members who reside in other states and several foreign countries. Each state division also participates locally in parades and fairs, provides programs for school and civic groups, and is engaged in maintenance and marking projects on the trail itself.

NPEA has received national and international recognition while carrying U.S. mail on horseback around a highway-closing mudslide in American River Canyon, CA, in 1983, and while participating in the Olympic Torch Relay in Colorado, Nebraska, Kansas, and Missouri, prior to the 1996 Summer Olympic Games in Atlanta, GA. Our members have been invited to ride in the Tournament of Roses Parade in Pasadena, CA, and in the "We the People" Parade in Philadelphia, PA, in 1986. We have enjoyed numerous other high-profile opportunities to share our pride in the history and heritage of the American West.

Members of NPEA show our willingness to do our part through activities along the trail. During the year 2001, NPEA members donated over 23,000 volunteer hours, valued at over \$320,000, and traveled more than 246,000 miles in support of the Pony Express National Historic Trail. This volunteer effort, valued at more than \$403,000, comes from an organization of approximately 800 members, having an annual operating budget of \$14,000. This time and effort are directed toward a wide variety of projects, such as trail construction and clearance of storm damage in California, marking the National Historic Trail across portions of Nevada, and delivery of Christmas cards by Pony Express to hospitalized children in Utah. Assistance with interpretive displays is being provided for the Trails Interpretive Center in Casper, WY, and for the Platte River Arch in Nebraska. In Julesburg, CO, a new bronze statue honoring the riders of the Pony Express is being built. Trail marking and scholarship programs in Kansas, and educational initiatives in Missouri are helping the public to enjoy the story of the Pony Express, and to know where significant events took place.

The National Pony Express Association works closely with our Federal partners, the National Park Service, which has administrative responsibility for the Trail, and the Bureau of Land Management and National Forest Service, whose lands contain major portions of the Trail in the western states. The association has cooperative agreements and memoranda of understanding with the BLM and the Forest Service, covering our activities on public lands under their jurisdiction. Park Service Challenge Cost Share Grants are being used for projects in several states, the largest being a \$13,600 grant to our California Division to help build a bridge on the South Fork of the American River, and otherwise improve public access to the Pony Express Trail. We are extremely grateful for the work done by dedicated employees of these agencies, and we are proud to be the primary volunteer organization with whom they work on matters pertaining to the Pony Express National Historic Trail.

The NPEA also strives to maintain an excellent rapport with ranchers and local land owners whose lands are crossed by the Pony Express Trail. The 1992 legisla-

tion authorizing the Pony Express National Historic Trail leaves all private property rights firmly in the hands of the land owners. Sites and trail segments may be certified and recognized by the National Park Service, at the request of the landowner, but such certification provides no guarantee of access to the general public, or to members of the managing agencies or volunteer groups. All decisions regarding access, trail marking, interpretation, etc., are left to the owner. A number of our members and re-ride participants are, however, ranchers and farmers who are proud to commemorate the important historic events which crossed their land. Examples include Gary Barker, who serves as ride captain in Wyoming, leading a group of riders across his family ranch on Yellow Creek, south of Evanston, WY. Three generations of the Bagley/Anderson family, owners of Willow Springs Ranch in western Utah, take part in the re-ride, and offer hospitality and a tour of a Pony Express station to members during the annual re-enactment. Near Seneca, Kansas, a Pony Express silhouette is being placed on property owned by Robert Runback. Many, many other examples exist of ranch families and land owners to whom NPEA activities offer an opportunity to show their pride in their heritage.

It is my hope that the preceding description of the dedication and depth of involvement of the members of the National Pony Express Association will help you to understand how highly we value our National Historic Trails. Federal dollars invested in the historic trails are leveraged many times over by volunteer groups such as NPEA. Your support of S. 213, as well as other legislation and initiatives benefiting our historic trails makes our effort seem worthwhile.

I have also been asked to speak on the importance of S. 213 to the Mormon Pioneer National Historic Trail. I hope that my status as a native Utahn, and past chairman of the Utah Historic Trails Consortium, plus participation on the Utah Pioneer Sesquicentennial Celebration Coordinating Council will serve as adequate credentials. Information for this testimony has been provided by the Mormon Trails Association in Utah, and by the Iowa Mormon Trails Association.

The Mormon Pioneer National Historic Trail was one of the first Historic Trails, authorized in 1978. As it presently exists, it recognizes only the 1846-47 route followed by Brigham Young's first emigrant group, known as the Vanguard Company. In the subsequent years prior to 1869, when the railroad was completed, a number of other routes were followed by Mormon emigrants on their way to Utah Territory. Most of those leaving Nauvoo in later companies traveled across Iowa on trails well north of Brigham Young's "Vanguard" route. Another significant example, also found in Iowa, is the route followed by the "Handcart Pioneers." A total of 2,962 people traveled west using handcarts, most in the years 1856 and 1857. In the words of Loren Horton of the Iowa Mormon Trails Association, "The significance of this number of people making a journey of that distance using such equipment is unparalleled in the history of the frontier development in the United States."

In the years 1864-67, approximately 6500 westbound Mormon emigrants used what is called the "Nebraska City Cutoff" across eastern Nebraska, as they left the Missouri River to begin the westward trek. As many as 17,000 traveled west by wagon train from the railhead in North Platte, Nebraska, between 1860 and 1868. In central Wyoming in the late 1860's, more than 6000 Mormon pioneers traveled on a portion of the Cherokee Trail on their way to Utah Territory. On their final approach to Great Salt Lake City, many followed Parley P. Pratt's "Golden Pass Road," roughly along the route of modern-day Interstate 80. For details of the trail routes proposed for further study, please refer to maps provided by the National Park Service. A complete listing of Mormon emigrant routes traveled, and frequency of use has been compiled by Mormon Trail scholar Ron Andersen. In all, an estimated 70,000 members of the Church of Jesus Christ of Latter Day Saints came west on the emigrant trails prior to 1869 and the completion of the transcontinental railroad. The present Mormon Pioneer Trail adequately tells the story of less than 200.

Most of the Mormon Trail cut-offs and variants proposed for further study were also used by Oregon and California bound pioneers. Some are already designated as portions of the California National Historic Trail. It is important that these shared routes receive recognition as part of each National Historic Trail to which they pertain, so that a more complete story of the westward migration can be told along the trails. Inclusion of the appropriate shared routes will not add massive numbers of miles to the trails. It will add greatly to the ability of the Federal managers and volunteer groups to provide the public with a more full and accurate picture of the opening of the West.

As with NPEA, the Mormon Trails Associations contribute massively to the trails. The estimated contributions to the Mormon Pioneer Trail for the year 2001 included 94,300 hours, and 335,500 miles traveled. The total value of all contributions is calculated at over \$2 million. Once again, the federal dollars allocated for the National

Historic Trails are matched many times over by the efforts of dedicated volunteers who work closely with the federal partners in support of the trails.

As has been explained regarding the Pony Express Trail, authorization of additional segments of the Mormon Pioneer National Historic Trail will have no undesired effect on private lands. Land owners will have complete control over visitation and access. No wording regarding condemnation of private property is contained in the original 1978 authorizing legislation, and none is sought in the current bill.

The stories of the trails tell the history of the westward expansion of our nation in the nineteenth century, of reaching out to grasp the "manifest destiny" foreseen by the founding fathers. The stories of adventure, the tales of sacrifice and hardship, need to be remembered and retold, as do the stories of injustices and broken promises. There are lessons for each of us in the chronicles of those times. The public today seems to have an unprecedented interest in trail history. In the fast-paced world in which we live, there exists a great yearning to connect with a simpler time. There is also a great desire to learn of our ancestors, to know where they traveled, what they did and what they built. We can follow the trails they followed, and perhaps see some of the things they saw, perhaps know some of the feelings they felt. These opportunities must be preserved for the future.

It may be that the paramount reason for preserving the trails and their history lies with the youth. Too many young people in our society grow up with no sense of who they are, or where they fit in terms of time and place. They seek to compensate for their lack of direction by indulgence in violent or self destructive behavior. Connecting with Historic Trails could help young people to see history as a story on the land, rather than merely a list of dates and places in a book. By finding out where they come from, they may begin to grasp a sense of who they are and where they are going.

Once again, I respectfully request your favorable consideration for S. 213. Our lives and those of our posterity will be immeasurably enriched by the preservation of the National Historic Trails. Thank You.

Senator AKAKA. Thank you for your statement, Mr. Hearty. May I call on Gary Werner for your statement?

STATEMENT OF GARY WERNER, EXECUTIVE DIRECTOR, PARTNERSHIP FOR THE NATIONAL TRAILS SYSTEM, MADISON, WI

Mr. WERNER. Thank you, Mr. Chairman.

My name is Gary Werner; I am here from Madison, Wisconsin, today. I am the executive director of the Partnership for the National Trail System, which is a federation of 22 citizen organizations that work in partnership with the National Parks Service, the Bureau of Land Management, and the U.S. Forest Service to help sustain our 22 national scenic and historic trails.

Besides my colleagues here at the witness table, I am joined with a number of people in the back of the room from, and I just wish they would stand, I will not be able to give you their names, but from the Ice Age, North Country, Pacific Crest, Potomac Heritage, and Trail of Tears Associations, all in support of S. 1069 and H.R. 834, providing the willing seller authority for nine of the trails.

I also have letters of support from the Lewis and Clark Trail Heritage Foundation, and from the Continental Divide Trail Alliance, which I would like entered into the hearing record, obviously, with my own statement.*

Senator AKAKA. They will be included in the record.

Mr. WERNER. You have already heard a number of statements, primarily by Senator Levin and Director Stevenson, about the importance of this legislation as remedial legislation to correct inconsistencies within the National Trail System Act, and provide for parity among the trails. The inconsistency, in terms of having nine

*The letters can be found in the appendix.

scenic and historic trails without willing seller authority, and 13 with, provides a certain irony actually, in that, for instance, the Mormon, Pioneer, Oregon-California, and Pony Express Trails share essentially the same route across the States of Kansas, Nebraska, and much of Wyoming. And yet currently, the Federal agencies have willing seller authority for two of these trails, but they do not for the other two. And you kind of wonder, can they buy land for all four trails under this, or can they only buy land for two, and why should you have this disparity?

Secondly, it has been mentioned that since 1983, a total of nine trails have been authorized, including the two most recent, the Ala Kahakai National Historic Trail in Hawaii, and the El Camino Real de Tierra Adentro National Historic Trail in Texas and Mexico, with exactly the same kind of willing seller authority being in these bills for the nine trails. It is also sort of ironic that S. 1946, Senator Campbell's bill for the Old Spanish Trail, has exactly the same willing authority as is included in these two bills for the nine trails. I think that the nine trails are being held to a standard that the other trails are not, because the kinds of studies about how much land might be involved, how many willing sellers have not been done on the Old Spanish Trail, were not done on any of the other trails for which willing seller authority has been granted. So it seems to me if it is comfortable for Congress to grant that authority for trails as recent as 2 years ago, it ought to be equally comfortable for Congress to grant that authority for trails that were authorized over 20 years ago. It is a matter of fairness and parity, I think.

It is also a matter of adhering to the intent of the National Trail System Act; which, among all of the authorities that are provided to the Federal agencies to provide these trails, is authority and intent to preserve resources, cultural, natural, historic, scenic along these trails. So we think it is important that this remedial legislation be adopted.

Is there a need for this legislation? Yes, there is a need for this legislation. We have figures which we have arrived at through our partner organizations that are included in my testimony which suggest that the four scenic trails, about 9,300 miles of trail, are only about half protected, and as Senator Levin mentioned, will likely never be completed as continuous footpaths without this authority for the Federal Government.

On the historic trails, whereas Mr. Watson has mentioned, its specific places/sites, that are the issue. Only about a quarter of the over 730 such sites along these five trails involved in the bill are protected.

In terms of Senator Campbell asking are there willing sellers on the Continental Divide Trail, we happen to know of at least one willing seller that would complete the trail through the State of Wyoming, willing to sell, Senator Thomas, easements to the Bureau of Land Management to accomplish that. Most of the trails in the State of Wyoming are already on public land. There are, I believe, 14 sites combined along the Oregon and the Mormon Pioneer Trail on private land in the State of Wyoming.

Anyway, we feel that it is time that these bills be passed. We thank you for your consideration of them, and wholeheartedly support passage.

[The prepared statement of Mr. Werner follows:]

PREPARED STATEMENT OF GARY WERNER, EXECUTIVE DIRECTOR, PARTNERSHIP FOR THE NATIONAL TRAILS SYSTEM, MADISON, WI

Mr. Chairman and members of the Subcommittee on National Parks:

The Partnership for the National Trails System strongly supports H.R. 834 as adopted by the House of Representatives and S. 1069 as introduced by Senator Carl Levin and urges the Subcommittee on National Parks to promptly recommend them, as written, for a vote in the Senate. The Partnership is a federation of 22 citizen organizations that directly support and help manage national scenic and historic trails in partnership with the National Park Service, USDA Forest Service, and Bureau of Land Management.

H.R. 834 and S. 1069 are important remedial bills that correct a gross disparity and inconsistency in the National Trails System Act. While the Act was created by Congress in 1968 to foster and sustain a nationwide system of trails with a full array of authority necessary for Federal agencies to administer them, nine scenic or historic trails were authorized between 1978 and 1986 without any Federal land acquisition authority. Federal administering agencies lack the fundamental and often essential means for protecting the integrity of the resources and the continuity of the footpaths for nearly one-half of the National Trails System, while Congress has provided those agencies with such authority for the rest of the System.

This inconsistency of land acquisition authority severely hampers appropriate administration of nearly one-half of the National Trails System. Perhaps the most striking example of this inconsistency and disparity is the four national historic trails administered by the National Park Service in Salt Lake City, Utah. Currently, the Park Service has authority to buy land from willing sellers along the California and Pony Express National Historic Trails, but is prohibited from doing so along the Oregon and Mormon Pioneer National Historic Trails.

This inconsistency seems highly ironic since the four trails share the same route across most of Nebraska, Wyoming and Utah. If a landowner offers to sell land to the Federal government containing historic traces of these four trails it is unclear what authority the Park Service has to act upon. With authority to buy land for two of the trails but not for the other two, would the conflicting authorities cancel each other or would the land be able to be purchased for the two trails and the other two left unrecognized on the site? Perhaps this is an odd situation, but it illustrates a peculiar and frustrating inconsistency in the Trails Act with important consequences for the day-to-day management and protection of these trails.

In contrast, two trails were authorized before 1978 and 11 trails have been authorized since 1983 with Federal land acquisition authority. Congress has authorized Federal agencies to buy land from "willing sellers" for 11 trails added to the National Trails System since 1983, including the two national historic trails, Ala Kahakai in Hawaii and El Camino Real de Tierra Adentro in Texas and New Mexico, authorized in 2000. To administer a consistent national system of trails the authority for the trails should be consistent.

H.R. 834 and S. 1069 restore consistency and parity to the National Trails System Act by providing willing seller land acquisition authority, that has been provided to scenic and historic trails by Congress since 1983, for the nine trails without acquisition authority so that Federal agencies will be able to help protect critical natural and cultural resources and the continuity of all 22 national scenic and historic trails. The need and opportunity to use this authority will arise at different times for the various trails. For some, the authority may not be used for many years or only infrequently. For others the need for this authority is more acute and it is likely to be used as soon as Congress makes it available and to be used often. Whether the authority is to be used sooner or later, to restore consistency and parity to the National Trails System Act it is important that H.R. 834 and S. 1069 include, as they do, all nine trails for which Federal agencies currently are prohibited from buying land.

H.R. 834 and S. 1069 also restore a basic property right to landowners. One of the basic property rights is the right of a landowner to sell the property when he or she wants to do so to whomever he or she wants to sell it. Section 10(c) of the National Trails System Act, as currently written, diminishes that right for thousands of people who own land along four national scenic trails and five national historic trails, by prohibiting Federal agencies from buying their land. Many of these

landowners have offered to sell their land to the Federal government to permanently protect important historical features that their families have protected for generations or to maintain the continuity of a national scenic trail for use by hikers or equestrians. By prohibiting Federal agencies from acquiring land from certain landowners the law effectively prohibits these landowners from selling their lands as they may desire, an infringement of civil and property rights. H.R. 834 and S. 1069 restore this basic property right to sell their land to the Federal government, if they desire to do so, to thousands of landowners.

Congress enacted the National Trails System Act in 1968 "to provide the means to provide for the ever-increasing outdoor recreation needs of an expanding population and in order to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the Nation . . . by instituting a national system of recreation, scenic and historic trails . . ." These trails provide opportunities for Americans and visitors from throughout the world to directly experience the places where important episodes in our Nation's history occurred and to recreate in the grandeur and beauty of our native landscape. Among the fundamental responsibilities given to the Federal agencies administering these trails are to protect their important cultural and natural resources and to provide "public access to [and] travel within" them. Yet they are prevented by Section 10(c) of the National Trails System Act, as currently written, from directly preserving these resources or from protecting a continuous right-of-way to allow "public access to [and] travel within" along nine of these trails—nearly one-half of the National Trails System. H.R. 834 and S. 1069 restore the ability of the Federal agencies to carry out the responsibility given to them by Congress in the National Trails System Act to protect nationally significant components of our Nation's cultural, natural and recreational heritage.

There is significant need for Federal agencies to be able to help protect the resources and continuity of these trails by acquiring land from willing sellers. The four national scenic trails affected by H.R. 834 and S. 1069 are projected to be 9,300 miles long when completed, yet 20 years after their authorization only about 5,229 miles, slightly more than half their length, are permanently protected for public benefit. For the three trails in the eastern half of the country, the Ice Age, North Country and Potomac Heritage Trails, which lie primarily across private land, barely one-third, about 2,142 miles, of their projected 6,100 mile length is permanently protected for public use.

In Michigan, the North Country National Scenic Trail faces significant challenges. Pressures from rapidly expanding development threaten the trail corridor throughout lower Michigan. Passing within 15 miles of Grand Rapids, the state's second largest city, the North Country Trail will offer tremendous recreational opportunities to the people of western Michigan. Yet, with only scattered public land holdings in the area, the trail also is extremely vulnerable to closures and relocations as private lands change hands. Ironically, in the vacation areas of Traverse City, Petoskey and Mackinaw City, the trail faces similar difficulties, as more and more people discovering the recreational bounty of this region build second homes in the area. In Michigan's upper peninsula, the challenge is different. Here, permanent easements are needed across vast expanses of corporate land to ensure the permanent protection of the trail. These challenges, relating to development and long stretches of private and corporate held lands, are common occurrences throughout the seven states linked by this 4,600-mile long National Scenic Trail.

Even though most of the Continental Divide National Scenic Trail is on public land there are several major gaps to be filled in order to make the trail continuous from Canada to Mexico. Gaps across private land in Colorado include about 10 miles around Muddy Pass near Steamboat Springs and another 10 miles across lands adjacent to Arapaho and Roosevelt National Forests in Clear Creek County. In New Mexico there is a 40-mile long gap south of El Malpais National Monument and in Wyoming the area north and south of Rawlins is a checkerboard of public and private land from 19th Century land grants to the railroads.

Without the ability for Federal agencies to purchase permanent rights-of-way from willing sellers it is unlikely that these trails will ever be the continuous pathways intended by Congress.

The degree of protection of the five national historic trails affected by this legislation is comparable to the condition of the four national scenic trails. Only 194 of the 730 "significant sites and segments" documented to date along the Oregon, Mormon Pioneer, Lewis and Clark, Nez Perce and Iditarod National Historic Trails are permanently protected. This amounts to only 26% of the recognized places along these trails that can provide visitors first hand experience of where important events of our Nation's history occurred. The attached table documents the degree

of protection of the resources and rights-of-way for each of the nine trails affected by H.R. 834 and S. 1069.

Without the ability for Federal agencies to acquire sites and segments along these nine trails from willing sellers, irreplaceable resources and experiences of our Nation's heritage will be lost forever. Here are several examples of what is being lost to public benefit along these trails for lack of Federal land acquisition authority:

Lewis & Clark National Historic Trail

Two years ago, a real estate firm offered for sale an 180-acre tract of land, which includes 50 acres of wooded Missouri River frontage on the outskirts of Washburn, North Dakota. It is along one of the rare free-flowing stretches of the Missouri River, south of Garrison Dam. The land is within the view shed of the North Dakota Lewis & Clark Interpretive Center, and very near the Fort Mandan replica and park. It is also located close to an existing 4-H Camp.

The area is rich in cultural resources, as this stretch of the Missouri River was home to numerous Mandan, Hidatsa and Arikara villages. The wooded bottomlands in this region are also home to the few pairs of nesting Bald Eagles in North Dakota. Whitetail deer, Canada Geese, wild turkeys and other upland game populate the area. Only 60 acres of the parcel is tillable land, the rest is either wooded river frontage, or hilly pasture. However, the hills all offer a broad vista of the Missouri River.

The North Dakota Lewis & Clark Bicentennial Foundation was willing to administer this land, if it could be acquired. Without authority to purchase this land, the National Park Service administrators of the Lewis & Clark National Historic Trail could do nothing and saw this land purchased by a private person, who may or may not preserve its scenic quality.

Ice Age National Scenic Trail

Several properties in the towns of Middleton and Verona, in Dane County, Wisconsin totaling about two miles of trail in a rapidly urbanizing area, were put up for sale over the past several years. Their purchase for the Ice Age Trail would have protected a nationally significant portion of the terminal moraine of the most recent continental glaciation, providing a stunning opportunity for the public to appreciate and enjoy the contrast of two startlingly dissimilar landscapes. Without public or private conservation buyers able to purchase and protect these properties they were subdivided for rural residential development. Only a narrow corridor was preserved by local government zoning authority for the Ice Age Trail to weave among the luxury homes.

North Country National Scenic Trail

At the west end of Watkins Glen State Park, New York is roughly a half-mile of private woods, a thin strip along the creek that tumbles into the Glen previously belonging to an adjacent farm. To the west of the private strip is a long stretch of mostly state forest, so a day's worth of walking is protected to the west. The Department of Environmental Conservation had been negotiating with the farmer over that strip along the creek for years, and he was willing, but the DEC was waiting for funding. The property which would consolidate many miles of trail and protect the hind end of a park potentially beleaguered by development along its edges was held by a willing seller who also seemed willing to wait.

However, the state waited too long. When they finally had the money they found that he had sold out, unannounced, to a new party who, while he hasn't thrown out the trail, isn't interested in selling to the state.

H.R. 834 and S. 1069 provide the authority for federal administering agencies to help protect the sites and segments critical to preserving the integrity and continuity of nearly 1/2 of the National Trails System. The willing seller land acquisition authority provided for these nine trails and subsequent appropriations from the Land & Water Conservation Fund will enable the Federal agencies administering them to respond to such conservation opportunities as they arise. Each year many sites and critical segments of these trails are offered for sale. Here are several examples of important sites now for sale by willing sellers along several of the trails affected by H.R. 834 and S. 1069:

Ice Age National Scenic Trail

County Park Department and State Department of Natural Resources agents are negotiating with owners of eight properties along the 50 miles of Ice Age Trail corridor crossing Dane County, Wisconsin. These parcels include about 6 miles of potential trail to add to 15 miles currently protected in one of Wisconsin's most rapidly growing counties. If acquired they will help connect two Dane County Parks and extend two State Wildlife Areas. Some of the purchases will be funded through State

and County funds matching a Land & Water Conservation Fund grant. Funding for several of the purchases is yet to be secured and several other landowners with property adjacent to these have offered to sell them for the Ice Age Trail. Despite their best efforts state and local agencies are not able to keep up with all the opportunities afforded by a volatile real estate market.

Lewis & Clark National Historic Trail

White Bear Island near Great Falls, Montana is one of the islands where Lewis and Clark cached some of their supplies on the way upriver. The island is in private ownership and should be protected.

Canoe Camp near Great Falls, Montana. When Meriwether Lewis's experimental iron boat failed, the expedition needed two more dug out canoes. These canoes were hewn from large cottonwood trees at this site. On July 15, 1805, the expedition ended the portage around the Great Falls of the Missouri and headed upstream for the Rocky Mountains and a meeting with the Lemhi-Shoshone Indians.

Mormon Pioneer National Historic Trail

The Hogsback Summit tract, 315 acres appraised at \$473,000 on October 1, 1998, is located in Summit and Morgan Counties, Utah. The Mormon Pioneer Trail ascends the hill to Hogsback Summit, a rolling sage plain with sweeping panorama of the Wasatch Mountains in the distance. The property contains not only the ruts but also a spring on the lower portion that was used for water and as a campsite by the pioneer party in 1847. The tract sustains a sage grouse population and drumming ground, rare in that part of Utah, and winter range for Elk.

Due to the location of the tract on a paved road to the north of a rapidly growing mountain community, the resources are at risk. It is directly in the path of mountain development.

Potomac Heritage National Scenic Trail

The Dennis Family in Loudoun County, Virginia, own a mile of private Potomac River frontage that links two stretches of public park land, a family group of tracts totaling 145 acres. Property around the Dennis land is being subdivided and developed at high intensity in the Washington suburban sprawl. Some of the Dennises would like to protect their land as willing sellers, but they cannot do it without receiving some payment. Protecting this land will tie almost five miles of continuous undisturbed riverside trail experience together.

Across the Potomac in Maryland, the riverfront in Prince George's County is being subdivided and former farms are being converted to residential neighborhoods. The County Park Authority is interested in getting rights-of-way for the Potomac Heritage National Scenic Trail, and there are landowners there, such as the Vehover Tract owners near Broad Creek, who would be very happy to sell either trail easements or conservation easements that would protect natural Potomac River landscapes and protect the Trail too.

H.R. 834 and S. 1069 provide the authority for Federal administering agencies to respond to these and similar opportunities provided by willing sellers to acquire land for recreation and education that will be appreciated for generations to come. Federal assistance will be a necessary complement to all the efforts of private organizations and state and local agencies, such as those that recently protected a section of the Crimson Bluffs along the Missouri River in Montana on the Lewis and Clark National Historic Trail, to help protect the nine national scenic and historic trails aided by this legislation.

For these reasons the Partnership for the National Trails System is very grateful to Congressman McInnis for introducing H.R. 834 and Senator Levin for introducing S. 1069 providing willing seller land acquisition authority to Federal agencies for the nine trails. We ask that the National Parks Subcommittee recommend adoption of H.R. 834 and S. 1069 to the Senate. The Partnership for the National Trails System appreciates the consideration you have given to H.R. 834 and S. 1069 and the opportunity to provide these comments in support of them for the hearing record.

STATUS OF NINE NATIONAL SCENIC AND HISTORIC TRAILS WITHOUT
FEDERAL LAND ACQUISITION AUTHORITY

National Scenic Trail	Projected length	Protected length	Unprotected length
Continental Divide Trail	3,200 miles	3,087 miles	113 miles
Ice Age Trail	1,200 miles	403 miles	797 miles
North Country Trail	4,200 miles	1,539 miles	2,661 miles
Potomac Heritage Trail	700 miles	200 miles	500 miles
TOTAL	9,300 miles	5,229 miles	4,071 miles

National Historic Trail	No. significant sites/segments	Protected sites/segments	Unprotected sites/segments
Iditarod Trail	approx. 75	11	approx. 64
Lewis & Clark Trail	approx. 270	123	approx. 147
Mormon Pioneer Trail	88	6	82
Nez Perce Trail	80	40	40
Oregon Trail	217	14	203
TOTAL	730	194	536

The figures given are the most accurate available; however they are approximate for all of these trails. Improvements in mapping techniques and historic research are increasing understanding of the full nature of these trails and the resources upon which they are based.

H.R. 834 and S. 1069 provide "Willing Seller" land acquisition authority to Federal agencies for these nine trails.

Senator AKAKA. Thank you very much for your statement, Mr. Werner.

Now, may I call on Dru Bower for your statement?

**STATEMENT OF DRU BOWER, VICE PRESIDENT, PETROLEUM
ASSOCIATION OF WYOMING, CASPER, WY**

Ms. BOWER. Thank you. Mr. Chairman, Senator Thomas, members of the committee. My name is Dru Bower and I am the vice president for the Petroleum Association of Wyoming, which I will refer to as PAW in this testimony. PAW would like to thank the subcommittee for the opportunity to testify on S. 213 and S. 1069. We were asked here today to give the committee our industry's perspective regarding trail designations and the complexity of the issue as it pertains to Wyoming.

The mineral industry provides a solid job base for residents and generates a significant portion of the State revenues. Last year, the oil and gas industry accounted for approximately 50 percent of the assessed valuation of property in Wyoming. The mineral industry, oil, gas, and mined minerals, provides 50 percent of the total education budget, and 60 percent of Wyoming's total annual budget.

Wyoming has the most miles of historic trails of any State in the West. There are five congressionally designated trails in Wyoming; however, the Oregon-California, Mormon, Pioneer, and Pony Express are the four trails that complicate matters for our industry. Possible additions to the trail system include the Overland and Cherokee, and it is the potential congressional designation of these two trails that concerns PAW.

Let us be very clear. PAW does not oppose the designation of additional trails. It is the restrictions imposed on the mineral industry, by BLM, through its development of trail management plans that is troubling.

In May 2001, Wyoming BLM announced it would be developing guidelines to protect view sheds associated with congressionally designated trails and provide management recommendations and prescriptions for public specific trail segments and sites that are eligible for listing on the National Registry of Historic Places. I will speak directly to BLM's effort for their guidance for managing surface-disturbing activities in the vicinity of national historic trails.

Wyoming BLM charged itself with developing a program to provide guidance which expanded the view shed protection area around trails. The four congressionally designated trails have a combined link of 1,260 miles as they cross the State of Wyoming. Currently, the controlled surface use stipulation, contained in the existing resource management plans for protection of congressionally designated historic trails, mandates that the area within a quarter mile of the visual horizon, whichever is less, is to be an avoidance area for surface-disturbing activities.

BLM, in its instruction memorandum, issued guidance to arbitrarily expand that protection area beyond the quarter-mile restriction to as far as 5 miles on either side of the trail. This proposed policy change in managing for view sheds of historic trails is a major land use action that would have an extreme adverse effect on industry's ability to develop oil and gas projects within an area of up to 12,000 square miles. Trails were meant to settle the West, not preserve the West. The oil and gas industry does not directly impact trails and minimizes indirect impacts, but this instruction memorandum unfairly restricted the industry before the proper scientific analysis was completed.

This week, BLM is releasing a subsequent memorandum, withdrawing the instruction memorandum for guidance, and announced that it would abide by the overriding stipulation in the resource management plans until the trail plan is completed, sent out for public review, and the resource management plans are amended.

PAW supports this process; however, industry has seen the blueprint of what to expect in the future, and should additional trails be congressionally designated, they will then be subject to a possible expanded protection measure, which may significantly curtail development and violate valid existing rights.

Even though Congress has not acted, the Overland and Cherokee Trails are currently subject to the same restrictions as congressionally designated trails in Wyoming; however, these potential designations are complicated by the fact that they travel through what is known as Checkerboard, or the land grant area located in southwest Wyoming. This creates conflicts for: One, the potential connection action, which could delay or deny projects; and, two, a possible drainage situation.

Regarding S. 1069, as specifically related to land acquisition from willing sellers, PAW's concern with this legislation is that should a portion of the trail change ownership, all valid existing rights must be honored by the new land owner, and reasonable access must be assured. In conclusion, PAW is not interested in prevent-

ing the designation of additional congressional trails, and understands the importance of protecting our Nation's history. We maintain that the existing restriction of a quarter mile on either side of the historic trail, or visual horizon, whichever is less, is adequate.

Only in highly unique circumstances should the current stipulation be expanded. We request the opportunity to work with trail advocates, such as OCTA, to develop a proposal to identify and protect unique trail resources, while preserving economic opportunities.

Mr. Chairman, members of the committee, thank you again for the opportunity to share with you our perspective regarding congressionally designated trails in Wyoming.

[The prepared statement of Ms. Bower follows:]

PREPARED STATEMENT OF DRU BOWER, VICE-PRESIDENT, PETROLEUM ASSOCIATION
OF WYOMING, CASPER, WY

Mr. Chairman and members of the Committee, my name is Dru Bower and I am Vice President of the Petroleum Association of Wyoming (PAW), specializing in public land issues. PAW would like to thank the Subcommittee on National Parks of the Committee on Energy and Natural Resources for the opportunity to testify regarding Senate bills 213 and 1069, which pertain to different aspects of historic trail designations. PAW is Wyoming's oldest and largest trade organization, the members of which account for over ninety percent of the natural gas and over seventy percent of the crude oil produced in the State. This legislation will affect members of PAW.

PAW was asked here today to give the Committee our industry's perspective regarding trail designations. In order to do this, a brief history is necessary in understanding the complexity of the issue as it pertains to natural resource development specifically in the State of Wyoming.

MINERALS AND WYOMING

Wyoming is a uniquely rural state, with an abundance of unpopulated, wide-open spaces. The 2000 Census reported that there are approximately 494,000 people living in the State, which covers 62,664,960 acres. That equates to 126 acres for every man, woman and child residing in the State. Public lands make up a significant portion of our western states and in Wyoming, approximately forty-nine percent (49%) of the surface and approximately sixty-six percent (66%) of the mineral estate is owned by the federal government and managed by agencies such as the United States Forest Service (USFS) and the Bureau of Land Management (BLM). For those who have not had the opportunity to conduct business in states that are primarily composed of federal land, BLM and the Forest Service are the land managers and decision-makers regarding all aspects of resource management.

The mineral industry provides a solid job base for residents and generates a significant portion of the State revenues. This revenue provides funding for the education of our children and other programs that could not otherwise be supported absent new taxes on the state's citizens. Last year, the oil and gas industry accounted for approximately 50% of the assessed valuation of property in Wyoming. This translates into \$1,200 of taxes paid for every Wyoming resident. The mineral industry (oil, gas and mined minerals) provides 50% of the total education budget, and 60% of Wyoming's total annual budget. The entire mineral industry generates 26,000 direct jobs. If one concludes that there are three (3) indirect jobs for every direct job, the result is 78,000 indirect jobs. Combined, a total of 104,000 jobs are attributable to mineral development in the State. Wyoming also is the largest contributor to the federal onshore minerals program with a submission of approximately \$900 million in fiscal year 2000 from rents, royalties, and bonus bids on public lands. Fifty percent (50%) of that total is allocated back to the State in which it was derived. There is truly a four-way partnership with industry, federal, state, and local governments. In western states, access to public lands is critical for the very survival of its citizens in order to maintain quality jobs and a reasonable tax base and revenue stream for State and local governments.

HISTORIC TRAILS IN WYOMING AND INSTRUCTION MEMORANDUM WY-2002-001

Wyoming has the most miles of historic trails of any state in the west. As I like to say, "everyone came through Wyoming, but no one wanted to stay". There are five (5) congressionally designated trails in Wyoming. The Nez Perce Trail, which runs through Yellowstone National Park, and the Oregon, California, Mormon Pioneer, and Pony Express Trails travel east to west across the entire State in southern Wyoming. It is these four (4) trails in southwest Wyoming that complicate matters for our industry. The proposed Senate bill, S. 213, would specifically authorize the feasibility and suitability studies of four national historic trails and provide for possible additions to these existing trails. Additions to the trail system include two (2) trails, the Overland and Cherokee, that travel east to west in southern Wyoming, and it is the potential congressional designation of these two (2) trails that concerns PAW. Let us be very clear, PAW does not oppose the designation of additional trails—it is the restrictions imposed on the mineral industry, by BLM, through its development of trail management plans that is troubling.

For example, in May of 2001, Wyoming BLM announced it would be developing guidelines to protect viewsheds associated with congressionally designated trails and provide management recommendations and prescriptions for specific trail segments and sites that are eligible for listing on the National Register of Historic Places. Wyoming BLM stated that this new directive was the result of former President Clinton's Executive Order 13195, "Trails for America in the 21st Century", which was signed on January 18, 2001. The Executive Order outlines the directive to protect "(b) the trail corridors associated with national scenic trails and the high priority potential sites and segments of national historic trails to the degrees necessary to ensure that the values for which each trail was established remain intact . . . (c) Coordinating maps and data for the components of the national trails system and Millennium Trails network to ensure that these trails are connected into a national system . . ." The Millennium Trails network allows for the classification of National, Legacy, or Community Millennium Trails. Depending on the protection measures implemented by BLM, this language in the Executive Order could significantly curtail oil and gas development in Wyoming and across the west. The Executive Order also establishes the "Federal Interagency Council on Trails" and a "Memorandum of Understanding of National Historic and National Scenic Trails", which was signed by several agencies effective January 19, 2001. The mission of the Memorandum of Understanding is to enhance and integrate all trails into a fully connected system, coordinate mapping, signs and cultural interpretations, and develop plans and recommendations for a national trails registry and database.

It is because of this guidance (and Executive Order) that PAW is concerned with the addition of congressionally designated trails. Just this week, Wyoming BLM has withdrawn its Instruction Memorandum WY-2002-001 (Interim Guidance for Managing Surface-Disturbing Activities in the Vicinity of National Historic Trails), which addresses guidelines for protection of congressionally designated trails. BLM will continue to develop an Environmental Impact Statement (EIS) to analyze for the Wyoming National Historic Trail Plan (WNHTP), which will eventually be used to amend the Resource Management Plan's (RMP). While the Instruction Memorandum (IM) is not in affect now, PAW has seen the blueprint of where BLM wants to take this planning effort and it is that concern which I will speak directly to today.

PROTECTION OF CONGRESSIONALLY DESIGNATED TRAILS

Since implementation of Executive Order 13195, Wyoming BLM charged itself with developing a program to accomplish the following: 1) Conduct a viewshed analysis five (5) miles from the centerline on each side of the trail; 2) construct a predictive modeling process for trails; 3) prepare a statewide context study to determine whether new trail segments should be registered as historic; 4) determine cultural and historical significance of trail segments; and 5) prepare a Trails Management Plan to be used in amending Resource Management Plan's.

The four congressionally designated trails that would be affected by these new guidelines are the Oregon, California, Mormon Pioneer, and Pony Express, which have a combined length of 1,260 miles as they cross the State of Wyoming. Currently, the Controlled Surface Use (CSU) stipulation contained in the existing RMP's for protection of congressionally designated historic trails mandates that the "area within 1/4 mile or the visual horizon (whichever is less) . . . is to be an avoidance area for surface disturbing activities". BLM, in Instruction Memorandum WY-2002-001, issued guidance to arbitrarily expand that protection area beyond the 1/4 mile restriction to as far as five (5) miles on either side of the trail. This proposed policy change in managing for viewsheds of historic trails, is a major land use

action that would have an extreme adverse effect on industry's ability to develop oil and gas projects within an area of up to 12,000 square miles. PAW contends that BLM prematurely assumed industry would have an adverse impact on trail viewsheds before the proper analysis had been conducted and before appropriate mitigation measures were even considered.

BLM declared in Instruction Memorandum WY-2002-001 as well as in the Lease Notice No. 2, that based on Executive Order 13195, additional protection measures need to be put in place to "ensure trail corridors are protected and that trail values remain intact". Again, "trail corridors" are being protected through the CSU stipulation in the RMP's, which mandates that the "area within 1/4 mile or the visual horizon (whichever is less) of any contributing trail segment will be an avoidance area for surface disturbing activities" (1/4 mile on each side of the trail). The Executive Order does not specifically outline the distance for which the "trail corridor" should be protected and it is only through BLM's latest interpretation that protection for "trail corridors" should be expanded beyond the 1/4 mile "corridor". Further, industry does not directly impact trails and minimizes indirect impacts, which complies with the protection of "trail values". PAW holds that the current CSU stipulation of 1/4 mile on each side of the trail satisfies the Executive Order for protection of the "trail corridor" and "trail values" and no adverse impact will occur due to development of the oil and gas resource.

BLM stated that the "purpose of this Instruction Memorandum WY-2002-001 was to establish interim policy and guidance for consistent management among Wyoming Field Offices (FO's) for managing surface-disturbing activities along National Historic Trails until such time as the Wyoming National Historic Trail Plan (WNHTP) is completed". In certain phases of this policy, BLM stated that the "evaluation of the condition of the trail landscape is a judgmental determination . . ." made by the land managing specialist. PAW determined this guidance failed to achieve its goal of establishing consistency among Field Offices. Due to the subjective nature of the language used, this policy would have had the opposite effect, which is increased inconsistency and possible delay of industry projects.

BLM verbally stated on several occasions that this Instruction Memorandum (IM) was not meant to delay or discourage oil and gas projects. However, under the "mitigation analysis" section of the IM, BLM stated that if the project was ". . . in an area of manageability, but cannot be practically mitigated, the manager may have discretion to defer action until the RMP has been updated". This was not a reasonable option for industry. Most RMP's in southwest Wyoming are just beginning their plan amendment process and will be completed in three to four years. In the case of the Green River RMP, the Record of Decision was signed in 1997 and it could be ten (10) to fifteen (15) years before that document is updated, therefore, delaying project approvals indefinitely. This policy, in fact, was already discouraging development on thousands of acres in Wyoming where companies hold valid existing leases that were issued by BLM without this additional restriction.

The Instruction Memorandum WY-2002-001 went even further in discouraging and delaying development by stating that the "Field Managers should be prepared to offer the lessee a suspension if granting approvals are anticipated to exceed the 60-day limit". Placing leases in suspense for an unknown period of time is not an acceptable, reasonable "option" for industry. Suspending leases does not improve our nations energy independence.

PAW does not oppose reasonable protection measures for trails. In fact, the natural resource industry protects cultural and historical resources as much as or more than any other land use special interest accessing trails. There are no permits issued to access or use trails for recreational purposes, there are no exclusion stipulations for off-road vehicle use (i.e. 1/4 mile on either side of the trail), and there are even two-track roads running parallel to or on the trail so that one may "experience" the same situation as the pioneers did one-hundred-and-fifty (150) years ago and utilization of the two-track is not considered a visual intrusion. Trails were meant to settle the west, not preserve the west. The oil and gas industry does not directly affect the trails and minimizes indirect impacts, but this IM unfairly restricted industry before the proper scientific analysis was completed.

PAW contends that the current CSU stipulation contained in the RMP's should be the guiding protection measure until adequate analysis has been conducted, the Trail Plan completed, subjected to public review, and the RMP's have been amended. PAW holds that Instruction Memorandum WY-2002-001 is contrary to the National Energy Policy and Executive Order 13212 as it creates adverse impacts on energy development, production, and distribution and is inconsistent with, and violates the spirit of, President Bush's directives. Instruction Memorandum 2002-053 was issued on December 12, 2001 by the Washington BLM Office, "Preparation of a Statement of Adverse Energy Impacts", which requires accountability from BLM

for its decisions regarding energy related projects. Instruction Memorandum 2002-053 specifically mentions that denial or delay of energy projects due to “. . . withdrawals, road closures, Historic Trail designations, scenic buffers, no leasing zones, no surface occupancy, and denial of access to mineral materials to support energy actions that would adversely impact energy development . . .” must be documented. While this IM WY-2002-001 does not overturn a decision made by the field manager, it does affirm the Administration’s overriding concern regarding reasonable access to public lands and agency decisions, which discourage or deny access for the purpose of developing mineral leases.

The National Historic Preservation Act, National Environmental Policy Act, Federal Land Policy and Management Act; and 36 CFR 800 (Section 106: Consultation) have all been in effect for several decades and have changed very little in content. It is only through this most recent interpretation that land managers have significantly changed their requirements. Again, PAW supports reasonable protection of trails. In fact, industry currently provides more protection for trails than any other resource utilizing public lands. As stated earlier, this week Wyoming BLM released a subsequent memorandum withdrawing Instruction Memorandum WY-2002-001 and announced that it would abide by the overriding stipulation in the RMP’s until the Wyoming National Historic Trail Plan is completed, sent out for public review and used to amend the RMP’s. PAW supports this process; however, industry has seen the blueprint of what to expect in the future and should additional trails be congressionally designated, they will then be subject to the expanded protection measure which may significantly curtail development and violate valid existing rights.

OVERLAND AND CHEROKEE TRAILS

Even though Congress has not acted, the Overland and Cherokee Trails are currently subject to the same restrictions as are congressionally designated trails (an avoidance area of 1/4 mile or visual horizon, whichever is less). However, these potential designations are complicated by the fact that they travel through what is known as “checkerboard” or the “land grant” area located in southwest Wyoming. In the 1860’s, the federal government deeded every other section for twenty (20) miles on each side of the railroad to Union Pacific as an incentive to continue building the Union Pacific Railroad. Recently another company purchased Union Pacific Resources (the natural resource development arm of Union Pacific) and acquired those lands. This private company has expressed interest in further development in the land grant area. Additional restrictions to protect trails can only be enforced on public lands; however, two different situations can and will arise.

First, when developing Environmental Assessments and Environmental Impact Statements for BLM related projects, BLM must analyze for cumulative impacts, regardless of land ownership, and often urges the applicant to commit to additional, “voluntary” mitigation measures regardless of land ownership and once the applicant agrees to the committed measures, they then become “conditions of approval”. This procedure creates two troubling situations: 1) Should the applicant oppose the additional “voluntary” mitigation measures on private land, BLM denies the project; or 2) If the project is approved and the applicant accepts the mitigation measures regardless of land ownership, the land owners may deny access for the action based on the “condition of approval”. Many times BLM requests these measures before first consulting with the land owner. Should the land owner deny access to the operator to conduct the “condition of approval”, BLM denies the action. This concept of a “connected action” between public land and private or state land is being vigorously applied and is troubling to industry.

Second and just as concerning, is a potential loss of federal minerals or “drainage”. “Drainage” is a situation that arises when there are adjoining leases and one is producing and the other is not. The wells on the producing lease can “drain” the resources from beneath the non-producing lease. If an operator desires to drill a well on private lands within the checkerboard area and BLM has required additional protection measures adjacent to federal lands, the operator may choose to develop on private land where there are fewer restrictions. By consistently drilling on private land, a drainage situation may occur which will cause the loss of resources and royalties to the federal government. This is not a prudent management strategy by BLM, and its responsibility to achieve maximum benefit from resources produced on public lands is thwarted. While PAW understands BLM has the responsibility to manage public lands for all uses and that it must analyze for the cumulative effects of a proposed action regardless of land ownership, BLM does not have the authority to manage private property for cultural resources or historic trails.

Senate bill S. 1069 is an Act relating specifically to land acquisition from willing sellers. PAW's concern with this legislation is that should a portion of the trail change ownership, all valid existing rights must be honored by the new land owner and reasonable access must be assured.

INDUSTRIES' COMMITMENT TO PROTECTION OF TRAILS

In a good faith effort, PAW met several times with members and directors of the Oregon-California Trails Association (OCTA) as a measure of understanding each other's needs and identifying locations that require additional protection. We have both had some success in negotiating and compromising for the benefit of both party's viewpoints. PAW remains committed to continuing its work with OCTA and finding ways to develop reasonable solutions for the proper protection of trails.

CONCLUSION

PAW is not interested in preventing the designation of additional congressional trails and understands the importance of protecting our nation's history. We maintain that the existing restriction of a 1/4 mile on either side of the historic trail or visual horizon, whichever is less, is adequate. We believe it is unreasonable to attempt to exclude development simply due to visual presence within five (5) miles from either side of the trail. Only in highly unique circumstances should the current stipulation be expanded. We respectfully request that the Committee consider giving PAW and other organizations a reasonable amount of time to work with trail advocates, such as OCTA, to develop a proposal to identify and protect unique trail resources while preserving economic opportunities.

Mr. Chairman, members of the Committee, thank you again for the opportunity to share with you our perspective regarding congressionally designated trails in Wyoming.

Senator AKAKA. Thank you very much for your statement, Ms. Bower.

I have a question for Mr. Watson.

Mr. WATSON. Yes, sir.

Senator AKAKA. The general practice is that after Congress authorizes a study to be undertaken for possible trail designations, further congressional action is required to designate a trail after the study is completed. This bill authorizes the Secretary to designate these additional routes without the need for further legislation.

If the study found the routes were appropriate for addition, can you please explain why further congressional action is not needed before designating these as additions?

Mr. WATSON. No, I cannot, and we would have no problems in coming back to Congress to get them approved, for those that passed the test of the Trails Act to qualify.

Senator AKAKA. Thank you for your brief answer. Mr. Werner, you testified on the need for the willing seller legislation, so that the Federal Government would have the ability to protect critical resources, and to acquire rights-of-way for the trail. If this legislation is enacted and there is new acquisition authority for the nine trails specified in the bill, do you have any estimate as to how much land the Federal agencies are going to need to acquire?

Mr. WERNER. I do not have an estimate of how much land would need to be acquired for each trail, as I have not, in my written testimony, submitted. We have a general estimate of the amount of the trail that is now currently completed, protected, and open for use, and the amount that needs to be protected.

I know, and I understand this from working with people in the National Park Service, and I assume this will be true for the Bu-

reau of Land Management and the Forest Service as well, that a route for the trail is first determined through a planning effort, and what parcels would be needed to actually, in the case of a scenic trail, to finish a continuous route that someone could walk would be identified for possible purchase. And then if the land owners who own that land chose to sell the land, each year, in the annual appropriations process, the particular agency would bring a request to Congress for approval, that would probably, I would assume, involve maybe a number of parcels, half a dozen to a dozen or more, that had been worked out under negotiation.

I know this was the practice along the Appalachian Trail, which you funded for acquisition for over 20 years; that, in fact, you would have, each year, a fairly specific list of parcels, and then a total amount of money to appropriate. In the case of the historic trails, as several of us have mentioned, it is not an intention to have a continuous right of way, but rather to protect specific sites, and those sites, I believe, have been identified in the comprehensive management plans for each of the trails. But there again, it is all totally dependent upon the desire of a land owner as a willing seller to come forward and say he or she would like to sell land, and at that point, you would have to determine how much land might need to be acquired, so it is very difficult to predict ahead of time.

Senator AKAKA. Ms. Bower, you have identified the concerns of the Wyoming oil and gas industries regarding the effect of trail designation on exploration activities in Wyoming. Do you have any comments or response to their concerns that the trails may affect oil and gas exploration?

Ms. BOWER. Mr. Chairman, "they" being the Bureau of Land Management or special interest groups?

Senator AKAKA. Well, let me ask you another one.

Ms. BOWER. Okay.

Senator AKAKA. Can you please clarify for me one issue in your testimony? With respect to the willing seller bill, is it correct that you do not oppose the Federal Government acquiring land from willing sellers for National Trail purposes, so long as valid existing rights are protected?

Ms. BOWER. Mr. Chairman, at this time that is our position. If it is owned by private interests changing into Federal control, or Federal control into private, we just want to make sure that either way it goes, we have access to our valid existing rights and are able to develop our leases. So that is correct, Mr. Chairman.

Senator AKAKA. Thank you very much.

Senator Thomas, any questions?

Senator THOMAS. Thank you, Mr. Chairman. I am sorry I had to miss part of the testimony. We are having a Energy mess on the floor. No, that is not true. We are trying to get together with how we are going to go on that.

Mr. Werner, I heard the last of yours. Would you think it appropriate to have any sort of congressional input, or limitation, to the acquisition of lands from a Federal agency from a Federal—from a willing buyer—seller?

Mr. WERNER. I know that you are the entity in the Government which finally pays all our bills, and I think that you have that au-

thority and right to determine if the agency brings forth an acquisition and says it is going to cost so much money, to reject that because it costs too much money.

Senator THOMAS. You do not think that this requires that the agency bring it forth?

Mr. WERNER. Well, as I was just mentioning to Senator Akaka, the chairman, my understanding is that the way the Appalachian Trail acquisition was conducted, that each year a list of parcels was proposed for purchase with a total bottom line. And that was brought forth in the appropriations process, and I do not know, in the history of that, to what extent you and your colleagues chose to accept the whole list and fund the whole amount, or change the amount on a year-by-year basis.

But I know that that would be the—I assume that is the same way that acquisitions are made for national parks, or forests, and things like that, that you do—

Senator THOMAS. No, that is not quite true. National Parks comes with a bill that lays out what the acquisition is going to be, and what the boundaries are going to be. If I read it right, this bill just says, it authorizes the agency to—extends to the Secretary to administer these trails, and acquisition from willing sellers only. That is all it says. I think some of us are concerned.

We are not anxious to have more Federal ownership than there needs to be to accomplish the goal, and so that seems to be one of the problems here, is that there ought to be some kind of accountability, specifically before this purchase takes place, I believe.

I agree with the willing seller part. I do not have a particular problem with buying the lands; although, quite frankly, when you take a look at the trails in the West and you want a continuous trail of a thousand miles, there is a lot of that trail that is not used. There are special parts along it that become famous, and so on—

Mr. WERNER. Right.

Senator THOMAS [continuing]. But the rest of it, it is the trail. But at any rate, I think it would be better if we had some kind of control on it.

Mr. WERNER. You, of course, appreciate, and I know—I mean I have had the distinct pleasure of being in Casper last summer, as a number of us did, for our annual conference, and have seen several of the locations along the historic trails, like Independence Rock, and—

Senator THOMAS. Absolutely.

Mr. WERNER [continuing]. That those are specific sites, that it is the preservation of those sites that are critical, it is not all of the route in between. It is only for the National scenic trails that Congress intended, and we are trying to carry out the idea of a continuous right of way that someone could walk. I realize that in some parts of Wyoming that walk on the Continental Divide is quite an endurance.

Senator THOMAS. I guess my point is, I do not have any problem with the idea of being able to complete these trails where it is appropriate, if you have willing sellers. I just am saying that I think we ought to make a little adjustment so that there is some accountability, in terms of the park having looked at it before, having said

here is what we want to buy, here is what we can do, prove it, we can go. Those things are done pretty easily here, but I am not prepared to let the agency just have free reign to buy willing seller property.

One of the stories that I do not know exactly was, I will sell you that right of way, I will sell you that trail, but you have to buy my whole place.

Mr. WERNER. If I could respond. I actually have worked over the years for the Ice Age Park and Trail Foundation, a non-profit partner with the National Park Service for the Ice Age Scenic Trail in Wisconsin, and I did do a fair amount of negotiation with land owners. Back there, as you appreciated, it is a much different landscape than that that you have in Wyoming. When we talk about whole parcels of land, we are talking about 40 acres, or maybe 80 acres, or—a section 640, that is a big piece of land.

What we had found repeatedly over the years, and this is working with local units of government, State government buying land for that trail, is that the land owners were saying, if you want to buy the right of way across the 40-acre parcel, I will be happy to sell it to you, but I am only going to sell you the whole 40. Now, that is a lot different than, say, selling a whole ranch in Wyoming, but that is one of the things that you have to deal with when you are working with willing sellers, because you have to find an accommodation to meet their needs as well as your own.

What has been done in a number of cases is excess land has been then—land not needed for the trail has been used to trade to other land owners in exchange for their land to continue the right of way for the trail. The other point is, in the case of that trail, which I know is similar to the Appalachian Trail, I know is similar to the Pacific Crest Trail, where Federal agencies have done considerable acquisition, there has been a very rigorous planning process, which, in fact, has identified a specific route location for the trail, and an area in which land could be purchased.

Now, the thing about willing seller is that you cannot, like with a highway project, say, this is exactly where we want to put it, and if you are not willing to sell your land to us, we can take the land by eminent domain. You have to provide enough leeway so that if this land owner does not want to have the trail, but the land owner next to him or her does, you can adjust that right of way a bit.

So the accountability that you are asking for, Senator, which is, I agree with you, absolutely needed, I think comes about through the planning process that would be undertaken for each of these trails. There is no incentive for the agencies to do it if they do not have the authority to purchase land from willing sellers.

Senator THOMAS. I am not willing to turn it entirely over to the agency. I think they should do the study. I think they should make the recommendation. I think they should come to us, if it is anything sizeable, and we ought to have a rule in it. You talk about if they have to buy more—have you heard of an agency disposing of any land?

Mr. WERNER. Well—

Senator THOMAS. No, you have not.

Mr. WERNER. I am familiar at the State level and local level, and—

Senator THOMAS. Well, I do not need that carried on, particularly. The same is somewhat true with S. 213, and I use Martin's Cove as the—Martin's Cove, as a matter of fact, belongs to the BLM. So I suppose if they want to make that part of the Mormon Trail, I guess they could probably do that. But, again, I think if you are going to reach out, for instance, on private lands and so on, there ought to be some study, some recommendation here, and not—we cannot just grant the authority for these guys to do whatever they want to on public land, but with private land. That is my view.

Mr. HEARTY. Senator Thomas?

Senator THOMAS. Yes, sir.

Mr. HEARTY. May I be so bold as to assert that to the very best of my knowledge, S. 213 is concerned with study and marking and designation of the trail, and not with acquisition in any form, Martin's Cove, or otherwise?

Senator THOMAS. Yes. We can do that now, right?

Mr. HEARTY. Not as part of the Mormon Trail, because it is not designated as part of the Mormon Trail. That is the authority—

Senator THOMAS. No, but they can designate it, and they have. It has a special designation now for particular use. It does not have to be part of the trail, because it was not part of the trail in the first place. It was something that took place as part of the trail, but it is off the trail. And that is a little different because—but, again, you go to the acquisition of private lands under this bill in some cases.

Mr. HEARTY. I do not believe it is intended that way.

Senator THOMAS. Well, I hope not, and we will try and make sure that it is not. Well, thank you very much. Let me just say finally that we need to—and it is not trails, particularly, but we need to take a look at what our extension of park responsibilities are going to be. We will have people come in here and talk about, we do not have enough money, we do not have enough money, and yet every time they come in, we are giving them more responsibilities.

I do not know how you handle that, but we have about 15 different designations of the kinds of things that the Park Service is now responsible for taking care of, and it is getting to be a pretty heavy load. Which I—I mean, parks are great for us but we do need to be kind of responsible at some time and say what is the limit that this park can handle, or can we do it some other way? In any event, Mr. Chairman, thank you.

Mr. WATSON. Senator, if I might comment, most of the work being done on the trails is done by volunteers. And with our Oregon-California Trails Association, last year our 4,000 members donated just over 50,000 hours to the trail, which is slightly better than a 10 percent increase over the year before, which supplements the agency's costs.

Mr. WATSON.—costs.

Senator THOMAS. No question. I admire what has been done and people who voluntarily do it but we still—the Parks still has the responsibility and that is what kind of sets it aside, I guess.

Mr. WERNER. I guess what we are just trying to remind you of is that, frankly, we think this public/private partnership/steward-

ship of public lands that you have in the National Trail System, that has been fostered under the support you have given, is a good model to perhaps apply to the stewardship of more of our public land, and that we would encourage more volunteers, and which I think is—you know, just as the President is.

We are certainly doing our part and we are going to continue to do our part.

Senator THOMAS. You have done an excellent job, there is no question. There are some ideas about how you manage some forest sections that way, locally. I do not think they are going to go very far, but nonetheless, that is an idea. So Mr. Chairman, thank you. Thank you all for being here. I appreciate your input. Thank you, Dru. It is nice to see you.

Ms. BOWER. Thank you, sir.

Senator AKAKA. Let me also join my friend here in thanking you for being here this afternoon, and providing the statements you have. That will be helpful to the committee.

The hearing record will remain open for 2 weeks, if anyone wishes to submit additional comments or materials to be included in the record. I want to thank you all very much, and I welcome those who were introduced here by our witnesses, who have come to join you here, and wish you a safe trip when you return home.

Senator THOMAS. Follow the trail.

Senator AKAKA. Follow the trail. This hearing is adjourned.

[Whereupon, at 4:30 p.m., the hearing was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

STATEMENT OF D. JAMES HEATON, KALAMAZOO, MI

I am an active volunteer with the Chief Noonday Chapter, North Country Scenic Trail Association, here in SW Michigan. I hope that in my lifetime, the North Country Trail will exist to provide the same challenge and enjoyment for walkers visiting the northern tier of states as the very successful Appalachian Trail does for the East.

I understand that your Subcommittee will be considering Senate Bill S. 1069, the so-called Willing Seller Authority Legislation. The House (H.R. 834) has already passed this critical legislation that will be integral to the Trail's completion. I hope The Trail comes to past in my lifetime.

Background information on the Trail can be obtained electronically at: <http://www.americanhiking.org/Policy/current/willingsel.html>.

More detailed information can be found in the testimony submitted by Gary Werner, Executive Director for the Partnership for the National Trails System at: <http://www.northcountrytrail.org/testimony.pdf>.

Thank you very much for helping the North Country Trail Association overcome this watershed obstacle.

STATEMENT OF CHARLES KRAMMIN, HASTINGS, MI

I try to get landowners permission for the North Country National Scenic Trail to pass through their property. I run into many problems (vandalism, hunting, trespassing, bikes, ATV's, snowmobiles, etc.) and even if I do get permission it can change with change of ownership.

This requires trying to find a whole new corridor and many times return to roads, which is not a good hike anymore. A willing seller legislation would allow a more permanent nature once the trail is allowed. This try of legislation is already allowed on the Appalachian Trail, which I thru hiked in 1997-98, and am thankful that this was permanently protected, for my once if a lifetime experience.

Please continue your good work on H.R. 834 and S. 1069.

STATEMENT OF RICHARD L. EHLLI, SMITHTOWN, NY

I urge you to support legislation known as the "Willing Seller Authority" act, the purpose of which is to provide a means to fund land acquisitions and easements for the putative National Trails System. These "linear parks" will become increasingly valuable to Americans in future years as the pressure of development continues to reduce the remaining open space that is in private hands.

As one who has hiked the Appalachian Trail from Georgia to Maine, I came to appreciate the foresight of Congress in the 1960s to protect the Trail, much of which crossed private land. Had that step not been taken, I think its character would have deteriorated by now from numerous reroutes along public highways made necessary as land owners sold off the wood lands it crossed to real estate developers.

The time to act is now!

STATEMENT OF PETER WYBRON, YORK, NY

I support H.R. 834 and S. 1069, an amendment to the National Trails System Act that would grant the federal government the authority to purchase land and easements for the North Country Trail from willing sellers. This bill is CRITICAL to our ability to complete the trail.

Thank you.

STATEMENT OF TODD REICH, BLACK RIVER FALLS, WI

I support S. 1069, to allow the government to purchase land to complete the North Country trail. Without this ability it is doubtful the trail will ever be complete.

STATEMENT OF BRIAN, JILL, AND MOLLIE HOORT, LANDSING, MI

I write to you to express my support for H.R. 834 and S. 1069, amendments to the National Trails System Act. These bills are critical for the completion of the North Country National Scenic Trail.

Please consider passing these amendments. In these times of urban sprawl and busy schedules, trail resources are wonderful weekend getaways for everyone at a minimum expense to government. These local trail systems mean a great deal to us throughout the year.

Thank you for your consideration.

STATEMENT OF PETER D. NORDGREN, LAKE NEBAGAMON, WI

I would like to strongly express my support for S. 1069 and H.R. 834, legislation to grant "willing seller" authority to the National Park Service for completion of trails under the National Trails System Act.

I live near the North Country National Scenic Trail in northern Wisconsin, and have hiked on this trail for more than 25 years. I would like to see the North Country Trail completed across Wisconsin, for my own recreational benefit and that of my neighbors. I'd like to see it completed across its entire seven state, 4,600 mile route. To do this, however, will require crossing many miles of private land.

I urge you to pass this bill to allow the Park Service to acquire trail easements or lands from willing sellers, so that our trail can be completed and available for the outdoor enjoyment of future generations.

LEWIS AND CLARK TRAIL HERITAGE FOUNDATION, INC.,
Great Falls, MT, March 5, 2002.

Sen. AKAKA AND COMMITTEE MEMBERS: I am writing today in support of Federal willing buyer/willing seller legislation as provided in H.R. 834 and S. 1069. As president of the Lewis and Clark Trail Heritage Foundation, I represent more than 3,200 citizens from across the United States. The foundation is the private non-profit partner with the National Park Service on the Lewis and Clark National Historic Trail.

Our Foundation's mission as the "Keepers of the Story and Stewards of the Trail" connects us with many public and private agencies and with private property owners along the 3,700-mile Lewis and Clark Trail.

We respect the rights of private property owners. However, we see difficulties arise when citizens wish to preserve a piece of history with a federal land management agency. The Lewis and Clark National Historic Trail is one of five national historic trails for which there are no provisions for citizens to sell a trail site, or any land for that matter, to the Federal government. Eight of the national historic trails have such authority and so should the Lewis and Clark National Historic Trail.

The Bicentennial of the Lewis and Clark Expedition is nearly upon us and preservation of the Trail is foremost in the minds of many Americans. We see S. 1069 as a positive step to assist private property owners and the nation as a whole in efforts to preserve our heritage and the story of the Corps of Volunteers for Northwest Discovery of 1803-06. We hope committee members and the full Senate will support this legislation.

Sincerely,

JANE SALE HENLEY,
President.

CONTINENTAL DIVIDE TRAIL ALLIANCE,
Pine, CO.

Hon. DANIEL AKAKA,
Subcommittee on National Parks and Recreation, Washington, DC.

Re: H.R. 834 & S. 1069—Willing Seller Acquisition Authority for Trails

DEAR SENATOR AKAKA: I am writing as a businessman, Wyoming resident, and National Spokesperson for the Continental Divide Trail Alliance to urge your support for S. 1069 and H.R. 834 providing Federal agencies with authority to buy land from willing sellers along the Continental Divide National Scenic Trail an eight other national scenic and historic trails. I understand that this is the same authority these agencies have for all of the rest of the national scenic and historic trails.

My first involvement with the Continental Divide National Scenic Trail came while I was Vice Chairman of the National Forest Foundation. I received a personal request from the USDA Forest Service to help create a public/private partnership in support of the multi-agency task force directed by Congress to complete this trail. It was a challenging request. However, the national historic trails; Lewis and Clark, Oregon, Mormon Pioneer, Nez Perce and Iditarod, also affected by this legislation, are key components of our heritage and I agreed to help.

Hundreds of thousands of tourists follow the routes of these trails, bringing money with them into small towns and big cities. Smaller in number, perhaps, but no less enthusiastic, are the hikers and backpackers who come to explore the great beauty of the Rocky Mountains by walking sections of the Continental Divide National Scenic Trail in ever increasing numbers as this Trail is built. The Continental Divide National Scenic Trail captures the imagination in ways that other trails cannot. It is an element of the growing tourism economies of the states through which it passes. It is also important because it allows the average American from any walk of life or any location to share our Western values, appreciate Western lands and understand the need for their continued support of our Western way of life. A trail, like a ski area, provides great recreational opportunity with small visitor day impacts to forest lands or private landowner rights which remain so important to those of us living in rural ranch country.

In addition, the value of a completed national trail system will provide invaluable opportunities for our citizens to live a healthy lifestyle. Walking is the number one form of recreation in our country. As you know, walking has numerous benefits for our population that is demonstrating alarming tendencies toward a more sedentary lifestyle and increased tendencies towards obesity and other related health risks.

I believe that we should give the Federal agencies that manage these trails and the volunteers in organizations like the Continental Divide Trail Alliance that contribute so much to sustain them all the help possible to protect important historical sites along them and to provide a continuous place to walk along the Continental Divide Trail. Passage of S. 1069 or H.R. 834 will enable those agencies to do so, while protecting and restoring the rights of private property owners.

I urge you to work for speedy passage of these beneficial bills.

With deepest respect,

STEPHEN A. FAUSEL.

Hayward, WI, March 14, 2002.

Hon. DANIEL AKAKA,
Chairman, Senate Subcommittee on National Parks, Dirksen Senate Office Building, Washington, DC.

Subject: Trail Willing Seller Legislation

Dear Chairman Akaka: I am writing to express my support for H.R. 834 and S. 1069 which will permit the federal government to purchase land and easements for the North Country Trail from willing sellers.

Much of the North Country Trail (about 2,600 miles) will cross land that is presently private. Since private land ownership (including corporate lands) is changing frequently, land and easement purchases will limit trail re-locations due to changing land ownership.

Backpacking and hiking are my favorite hobbies. They help to keep me physically fit, since much of my work involves pushing a pencil or computer keys while seated

at a desk. Backpacking and hiking trails such as the North Country also provide relaxation from high pressure work activities.

Very truly yours,

ROBERT R. SWANSON JR.,
Chemical Engineer (Contract).

Willits, CA, March 13, 2002.

Hon. DANIEL AKAKA,
*Chairman, Senate Subcommittee on National Parks, Dirksen Senate Office Building,
Washington, DC.*

DEAR CHAIRMAN AKAKA: I am writing to urge your support of an amendment to the National Trails System Act that would grant the Federal government the authority to purchase land and easements for the National Trails System from willing sellers. This bill passed the House last year (H.R. 334) and was recently introduced as S. 1069 in the Senate.

The National Trails System Act in 1968 gave the Federal agencies administering these trails the responsibility to protect their important cultural and natural resources and to provide "public access to [and] travel within" them. Yet, they are prevented by Section 10(c) of the National Trails System Act, as currently written, from directly preserving these resources or from protecting a continuous right-of-way along nine of these trails—nearly one-half of the National Trails System. H.R. 834 and S. 1069 restore the ability of the Federal agencies to carry out the responsibility given to them by Congress in the National Trails System Act to protect nationally significant components of our Nation's cultural, natural and recreational heritage.

H.R. 834 and S. 1069 also restore a basic property right to landowners: the right to sell the property when he or she wants to do so to whomever he or she wants to sell it. Section 10(c) of the National Trails System Act, as currently written, diminishes that right for thousands of people who own land along four national scenic trails and five national historic trails, by prohibiting Federal agencies from buying their land. H.R. 834 and S. 1069 restore this basic property right to sell their land to the Federal government should they desire to do so.

For these reasons, I ask that the National Parks Subcommittee recommend adoption of H.R. 834 and S. 1069 to the Senate.

Sincerely,

RICHARD BARFIELD.

CONTINENTAL DIVIDE TRAIL SOCIETY,
Baltimore MD, March 18, 2002.

Hon. DANIEL AKAKA,
*Chairman, Senate Subcommittee on National Parks, Dirksen Senate Office Building,
Washington, DC.*

DEAR SENATOR AKAKA: We are writing in support of S. 1069 and H.R. 834, the bills which would grant administering agencies the authority to acquire lands for the Continental Divide National Scenic Trail and other national trails on a willing seller basis.

There are a number of places where the route of the CDNST might be improved if it could be relocated to lands that are currently in private ownership. We are especially concerned about the safety problems associated with the current routing along high-speed highways. But we would also welcome some relocations that would enhance the scenic or cultural enjoyment of the Trail in accordance with the objectives set out in the National Trails System Act. The proposed legislation would provide agencies with the necessary flexibility to improve the recreational experience whenever a private landowner indicated a willingness to sell his property.

I am sure that our members, who reside in over 40 states as well as several foreign countries, share our enthusiastic support for passage. We ask that these views be included in the hearing record on their behalf.

Sincerely,

JAMES R. WOLF,
Director.

Whitehall, MI, March 14, 2002.

Hon. DANIEL AKAKA,
Chairman, Senate Subcommittee on National Parks, Dirksen Senate Office Building,
Washington, DC.

DEAR CHAIRMAN AKAKA: I want to take this opportunity to express my support for H.R. 834 and S. 1069. I am an avid hiker and have a dream of someday thru-hiking the North Country Trail. This trail needs 2,600 miles of trail to build across what currently is private lands to be complete and this amendment to the National Trails System Act is crucial to our efforts to complete this trail. As evidenced by what has occurred to land surrounding the Appalachian Trail, this amendment will not only help to complete this trail but lands acquired will be preserved for future generations to enjoy.

Thank you for your consideration.
Sincerely,

RICHARD M. SCHULTZ.

COLORADO STATE PARKS BOARD RESOLUTION RECOMMENDING DESIGNATION OF THE
OLD SPANISH TRAIL AND THE NORTHERN BRANCH OF THE OLD SPANISH TRAIL AS
A NATIONAL HISTORIC TRAIL

Whereas, the Colorado State Parks adopted a resolution on July 16, 1993, supporting legislative designation of the Old Spanish Trail and the Northern Branch of the Old Spanish Trail as a historic trail; and

Whereas, the United States Congress adopted a Study Bill sponsored by U.S. Senator Ben Nighthorse Campbell and Congressman Scott McInnis; and

Whereas, the National Park Service has completed a study and has not recommended designation as a National Historic Trail; and

Whereas, the Old Spanish Trail and the Northern Branch of the Old Spanish Trail proceeded through much of Western Colorado and followed part of the route traveled by the Dominguez-Escalante Expedition of 1776 and was part of the trails used by Indians, trappers, mountain men and other early travelers in what is now the southwest part of the United States; and

Whereas, the National Park Service study has only focused on the time period from 1829 to 1848 in its historical analysis; and

Whereas, the Old Spanish Trail has an extensive history and should be designated as a National Historic Trail by the Congress of the United States.

Be It Resolved, that the Colorado State Parks, and the Colorado State Parks Board hereby supports designation by the United States Congress of the Old Spanish Trail and the Northern Branch of the Old Spanish Trail as a historical trail.

Be It Further Resolved, that United States Senators from Colorado, Ben Nighthorse Campbell and Wayne Allard, and United States Representative, Scott McInnis, be contacted and are hereby requested to initiate whatever efforts may be required to achieve National Historic Trail designation for the Old Spanish Trail and the Northern Branch of the Old Spanish Trail.

Be It Further Resolved, that copies of this Resolution be sent to the Colorado Congressional Delegation and to such other federal, state and local officials as may be interested in the Old Spanish Trail and its Northern Branch.

ADOPTED unanimously this 22nd day of September 2000.

COLORADO STATE PARKS,
Laurie A. Mathews, Director.

COLORADO STATE PARKS BOARD,
Edward C. Callaway, Chairman.

OLD SPANISH TRAIL ASSOCIATION,
Marysville, WA, March 5, 2002.

Hon. DANIEL AKAKA,
Chair, National Parks Subcommittee, Senate Energy and Natural Resources Committee,
Washington, DC.

DEAR SENATOR AKAKA: On behalf of the Old Spanish Trail Association, a national organization established in 1994 to study, preserve and protect the Old Spanish Trail, I urge the Senate Energy and Natural Resources Subcommittee on National Parks to move S. 1946, the Old Spanish Trail National Recognition Act of 2002, out of committee with a Do Pass recommendation.

This action will elevate this route to its rightful place in the pantheon of nationally significant historic trails, but it is the implication of this nomination that is still more important. It signifies that the Southwest, whose history has long been treated separately from mainstream America, finally will be integrated with the American nation in history as it is in geography. Braiding together these strands of history will have a major impact on the teaching of American history.

We look forward to working with the National Park Service to develop a comprehensive management plan for the Old Spanish Trail. We hope we can count on your support for S. 1946, a vitally important next step in the effort to realize the Old Spanish Trail National Historic Trail.

Very truly yours,

ELIZABETH VON TILL WARREN,
President.

STATEMENT OF SHANE HENRY, ASSISTANT DIRECTOR FOR LANDS AND ENERGY,
COLORADO DEPARTMENT OF NATURAL RESOURCES, DENVER, COLORADO

Mr. Chairman, I would like to thank you and the Subcommittee on National Parks for the opportunity to testify in support of the designation of the Old Spanish Trail and its Northern Branch as a National Historic Trail. I especially commend Senator Campbell for the tireless leadership he has provided on this effort. Senator Campbell's diligence, patience, and proven commitment to making this designation a reality is certainly worth noting. I would also like to thank his colleagues, Senator Allard and Congressman McInnis, and former Senator Hank Brown for the strong interest and effective support they have given to this issue. On behalf of Governor Bill Owens and the Department of Natural Resources I offer Colorado's enthusiastic support for S. 1946, a bill to designate the Old Spanish Trail and its Northern Branch as a National Historic Trail.

The State of Colorado recognizes the Old Spanish Trail and its Northern Branch as an important part of our State's rich and eventful history. For centuries this well traveled trading route from Santa Fe to Los Angeles provided abundant regional commerce from the earliest of times. From the Utes, Navajos and Spanish explorers to New Mexican traders, French-Canadian trappers and American Settlers, the Old Spanish Trail and its Northern Branch played a significant role in all cultures that occupied the diverse West. Whether reading through journals of some of the most notable explorers who traveled this route—such as Fathers Dominguez and Escalante, Kit Carson and Lt. George Brewerton—or studying a historic map that shows the hundreds of communities and settlements this trail once served, there is no doubt as to the historical place this trail has in Colorado history. Designation of the Old Spanish Trail and its Northern Branch as a National Historic Trail would grant this historic trading route the official recognition it so richly deserves.

The Colorado Department of Natural Resources has been an avid supporter of this effort going back to 1993, when our State Parks Board passed a resolution supporting historic trail designation of the Old Spanish Trail and its Northern Branch. The Colorado Department of Natural Resources and Colorado State Parks have followed with interest the National Park Service's feasibility study and analysis. We have also supported the efforts of the Old Spanish Trail Association and the ad-hoc committee of volunteers in Grand Junction, whose remarkable determination is largely responsible for why we are all here today.

To reaffirm its support, Colorado State Parks on September 22, 2000, unanimously adopted a resolution recognizing the historical value of the Old Spanish Trail and its Northern Branch, and asked for National Historic Trail designation by the Congress. I have included a copy of this resolution to be entered into the hearing record as part of this testimony.

The State of Colorado's support for the designation is especially noteworthy today. As we speak, Governor Owens is announcing a proclamation designating 2002 as the Year of Trails in Colorado, as a way to celebrate the recreational and historic values that our amazing network of trails offers to Colorado citizens and visitors. I can tell you, the prospect of adding the Old Spanish Trail and its Northern Branch to the list of National Historic Trails in the same year Colorado is gearing up its promotion of state trails is exciting to Governor Owens and the State of Colorado. Colorado recognizes the numerous educational benefits and opportunities for historic interpretation that this designation would provide the citizens of Colorado. Perhaps just as important is the national perspective this designation would give to state and local educational programs for use in schools as they fill in the large "gap" in the National Historic Trails map of the United States.

For all these reasons, Mr. Chairman, the State of Colorado is proud to lend its support to this important designation effort. Designation of the Old Spanish Trail and its Northern Branch has the support of Governor Owens, the Colorado General Assembly, the Department of Natural Resources and Colorado State Parks, CLUB 20, Mesa County, the City of Grand Junction, and many other communities along the trail in western Colorado. We hope this committee and ultimately Congress as a whole will support this locally driven, multi-state initiative and move with all deliberate speed to bring about its designation this year.

Thank you for the opportunity to testify on this important matter.

SECOND REGULAR SESSION

SIXTY-SECOND GENERAL ASSEMBLY

STATE OF COLORADO

BY SENATOR TECK, CHLOUBER, AND DYER; ALSO REPRESENTATIVE SMITH, ALEXANDER, BERRY, GAGLIARDI, LARSON, AND TAYLOR.

SENATE JOINT MEMORIAL 00-002

MEMORIALIZING THE MEMBERS OF THE CONGRESS OF THE UNITED STATES TO DEDICATE THE OLD SPANISH TRAIL AND THE NORTHERN BRANCH OF THE OLD SPANISH TRAIL AS AN HISTORIC TRAIL

Whereas, The Old Spanish Trail, which ran between Santa Fe, New Mexico, and Los Angeles, California, was the first trail into Utah and is still the least known; and

Whereas, Frontiersmen and traders en route from Santa Fe to Los Angeles blazed a circuitous route to the north through Utah; and

Whereas, Between 1839 and 1848, a major trade route was established between Santa Fe and Los Angeles which stretched approximately 1,121 miles; and

Whereas, The Old Spanish Trail and the northern branch of the Old Spanish Trail proceeded through much of western Colorado and followed part of the route traveled by the Dominguez-Escalante Expedition of 1776; and

Whereas, In 1853, Captain John Williams Gunnison of the U.S. Corps of Topographic Engineers was commissioned by the war department to find a route for a railroad through the Colorado Rockies along the 38th parallel; and

Whereas, During his expedition, Captain Gunnison came upon the northern branch of the Old Spanish Trail in the San Luis Valley, which he followed into eastern Utah; and

Whereas, The federal government's Salt Lake Wagon Road followed portions of the Old Spanish Trail at the northern branch to bring supplies to the Los Pinos Indian Agency in the Uncompahgre Valley and the budding mining camp of Ouray, Colorado, in the late 1870's; and

Whereas, The Old Spanish Trail and its northern branch was instrumental in the creation and establishment of many of western Colorado's towns and communities, including Alamosa, many Monte Saguache, Gunnison, Montrose, Olathe, Delta, Whitewater, Grand Junction, Fruita, Loma, Pagosa Springs, Durango, Mancos, Dolores, and Dove Creek; and

Whereas, Very little information is recorded about the northern branch and much more can be learned about the Old Spanish Trail; and

Whereas, Beginning with the northern branch of the Old Spanish Trail in the 1830's and 1840's, followed by the Gunnison Expedition of 1853 and the Salt Lake Wagon Road of the late 1870's, the Grand Valley of western Colorado has been the site of an historic route for travelers, now, therefore,

Be It Resolved by the Senate of the Sixty-second General Assembly of the State of Colorado, the House of Representatives concurring herein:

That the Congress of the United States is hereby memorialized to adopt legislation that dedicates the Old Spanish Trail and the northern branch of the Old Spanish Trail as an historic trail.

Be It Further Resolved, That copies of this Joint Memorial be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Colorado congressional delegation.

TESTIMONY OF THE NAVAJO NATION ON THE LONG WALK NATIONAL HISTORIC TRAIL
STUDY ACT (H.R. 1384)

H.R. 134—LONG WALK NATIONAL HISTORIC TRAIL STUDY ACT

There is really a lot to this story, but I'll tell you just a portion of it. The Journey to Fort Sumner began because of a terrible war. That was what my grandmother told my mother, and she passed the story on to me. My mother was probably a young child at that time of the Long Walk. There is a place called Dleesh Bii to (White Clay Spring), a little way southeast of here. From there on up this way there used to be farms. One day as some of the Dine were roasting corn from a pit, all of a sudden a loud noise was heard from the direction of a place call Atch'inna'ahi (Points Come Together). The noise resembled thunder crashing. Our people were always on the alert, as it was a fearful time. Other people sleeping on the hill also heard the noise. Then someone yelled from the top of a hill, as men did in those days. As the man was yelling, horses hoofs were heard. The Utes were approaching fast. They attacked the people who had been sleeping and killed a lot of them. Some Dine fled up the hill where, on the very top, stood a man named Ats'aali (Branch of the Wash) who saw the shooting and killing taking place down below. He saw a lot of our people killed.

(This story was told by Yesbah Silversmith who at age 90 still herds sheep near her home in Lukachukai, AZ.)

INTRODUCTION

The Navajo Nation and its people have a rich and proud history. Our history recounts the journeys of our ancestors into the present world. (The Navajo are known as the Ni'hookáá' diyin dine 'e bíla'áshdlá'ii (Five Finger Earth Surface Holy People), the name given to the Navajos by the Holy People at the time of their emergence into this world.) From time immemorial the lands between the four cardinal mountains of Sisnaajini (Blanca Peak, Alamosa, Colorado), Tsoodzil (Mount Taylor, Grants, New Mexico), Dok'o'osliid (San Francisco Peaks, Flagstaff, Arizona), and Dibe Ntssa (Hesperus Mountains, Durango, Colorado) have been the sacred homeland of the Navajo. It is in this world, Ni'hodis's (the Glittering World) that a fairly recent historical event challenged the Navajo people's very existence within the boundaries of the sacred mountains of the Navajo land.

The Navajo people have a culture unique to the United States Southwest. It has sustained the Navajos for countless generations. The symbolism imbued in the landscape has created unbreakable ties between the land and the people. It is the devotion to the sacred land and the enduring culture that has fostered a viable sovereign nation that continues to survive and prosper. It is the strong culture and sacred landscape that the Navajo cherish, and these fundamental values will keep the Navajo Nation and its people living between the four cardinal mountains in their sacred homeland. It is the strong culture and sacred landscape that the Navajo cherish. These fundamental values will keep the Navajo Nation and its people living between the four cardinal mountains in their sacred homeland. The strength of Navajo culture and its ties to the land have been challenged throughout time and continues to be challenged.

The Spanish and later Mexican governments forced themselves into the aboriginal lands of the native population of the Southwest in the late 1400s and early 1500s. By the mid 1800's, the Navajo people, after approximately three centuries of unwelcome encroachment by Europeans and later Americans, were reacting to a situation that was tearing away their culture and land base. This era is bitterly remembered as a dark page in Navajo history—when the United States set out to obliterate Navajo culture, as a place known as Hwéeldi, Bosque Redondo, or Fort Sumner, NM.

THE LONG WALK

In the mid 1800s, before, during, and after the Civil War, enslavement and slave trade of Navajo women and children was still actively practiced in the Southwest. The slave raids were lead by Mexican and American settlers in retaliation for raids by Navajos against the communities that surrounded the Navajo lands.

In 1849 and 1850, several failed peace negotiations with the United States government lead to a military campaign to subdue the Navajos. The Army would not tolerate any humane treatment of Navajo people who would not surrender. Realizing that the Navajos could not be subjugated in their own land, the United States viewed removal as the only alternative.

Beginning in early 1860, the U.S. military posts in Navajo land under the leadership of Brigadier General James H. Carleton, set the stage for the campaign against the Navajo people. Colonel Christopher Carson, known as "Kit Carson," commanded the Army troops that ravaged Navajo country, rounding up the Navajos to be removed to a foreign land. Almost every Navajo family today has their own family history describing the terrifying destruction and annihilation wrought by the determined Army campaign against the Navajos.

Hweeldi, more than 350 miles from Navajo land, was the desolate site chosen to confine the Navajo people and force them to live according to the foreign laws of the United States government. Thousands of Navajos walked the entire distance to Fort Sumner under the watchful eyes of the U.S. military. Thousands of Navajos endured the trek, experiencing severe hunger, even starvation, and attacks from other tribes, only to arrive at the vile, flat land with its appalling living conditions that were devastatingly traumatic to the Navajo people.

The Navajos were held as prisoners of war for four years at Fort Sumner. Poor planning, drought conditions, severe winters, and continued slave raids took their toll on the already suffering captive Navajos. Finally, in the spring of 1868, the worn leaders begged to return to the land within the Sacred Mountains. The drive to return to their homeland kept the people alive, despite the vast distance to which the Navajos had been removed. On June 1, 1868, a treaty was drawn up that ended this nightmare and allowed the Navajos to walk 350 miles back home.

Today, the Navajo Nation has approximately 280,000 members spread across the vast reservation of more than 16,000,000 acres, and many live in urban centers throughout the U.S., and around the world. We still retain our language and many of our traditions. We are proud people, and we remember our history, the history handed down to use by our forefathers and mothers about the ordeal at Fort Sumner. The Navajo Nation supports the designation of the Navajo Long Walk Trail so that future generations of Navajo and other Americans will remember this dark page of American history, and that will not happen again, here in our Homeland, the United States of America.

RECOMMENDATIONS

- The Navajo Nation urges Congress to defer to the Navajo Nation in determining which route will be designated. Four primary routes were used by the U.S. military during the Navajo removal.
- The Navajo Nation also recommends that Congress mandate that the National Park Service consult with the Navajo Nation regarding all interpretative material such as brochures, trail markers, scenic off-ramps and the like.
- The Navajo Nation urges Congress to add appropriations authorization language to the bill so that the Navajo Nation and the National Park Service are able to conduct the necessary research, consultation, and maintenance of the Long Walk Trail.

CONCLUSION

The horrible accounts of this period in Navajo history are not openly discussed or willingly shared by Navajo people. This test of Navajo fortitude remains in the shadows of American history, left to be forgotten. The proposed H.R. Bill 1384 Long Walk National Historic Trail Study Act to Bosque Redondo will insure that this page of Navajo and American history will be remembered and the Navajos who endured the Long Walk and incarceration at Hweeldi are properly honored.

The Long Walk serves to remind society of the importance of cultural perseverance, and its designation as a national historic trail will help to ensure that this portion of Navajo history will never be forgotten. Hence, the Navajo Nation and its people support H.R. Bill 1384 and respectfully request immediate legislative action to memorialize this important ratify page in American history.

STATEMENT OF HON. DOUG BEREUTER, U.S. REPRESENTATIVE FROM NEBRASKA

Chairman Akaka, Senator Thomas and members of the Subcommittee: I would like to begin by thanking you for giving me this opportunity to express my strong support for S. 213 and the House companion bill, H.R. 37, which I introduced last year. I also sponsored a similar bill in the previous congress.

I introduced H.R. 37 on January 3, 2001, and I am pleased to say that the House approved the legislation by voice vote on June 6, 2001. This bill is necessary and should be non-controversial. It is a straight-forward effort to provide for a one-time

feasibility study update for four national historic trails—Oregon, California, Mormon and Pony Express.

The measure simply recognizes the fact that there are additional routes and cut-offs which may deserve inclusion in the National Trails System. During the update period, the National Park Service will work with the appropriate trails groups and other interested parties to develop information on any new segment of trail in an effort to determine if it meets the criteria for addition to the system. No condemnation of private lands or Federal leases is to be contemplated to add any of these routes to the trails.

Although the National Park Service is supportive of efforts to examine these additional routes, it has determined that legislation is needed to provide the authorization. That is the purpose of S. 213 and H.R. 37.

All four trails covered in this legislation were instrumental in opening the American West, but each has its own unique story to tell. The California Trail enabled 70,000 people to follow their dream to the Golden State in 1849 and 1850. The Oregon Trail made it possible for fur traders, settlers and others to reach the Pacific Northwest.

Although it lasted only about 18 months, the Pony Express achieved a cherished role in American lore. Its daring riders, which included Buffalo Bill Cody and Wild Bill Hickok, were able to deliver mail from St. Joseph, Missouri to Sacramento, California in ten days. The Mormon Pioneer Trail allowed the church members an opportunity to head west in search of religious freedom.

These trails all follow at least part of the Platte River and Nebraska is proud to have as one of its nicknames the "Historic Trails State." Many used the route through Nebraska to reach their goal further west. Those with more foresight decided to settle in Nebraska.

I am pleased to note that during the 102nd Congress I introduced the legislation which was enacted to designate the California National Historic Trail and the Pony Express National Historic Trail as components of the National Trails System. The bill being discussed today will build on that effort and enable even greater recognition of the contributions made by these bold and courageous pioneers. Those who used the trails endured hardships that are difficult to imagine. They survived hazards such as wild animals, blizzards and floods as well as scarcity and disease.

To those who bravely made it to their destination and those who died along the way we owe a huge debt of gratitude. I believe that S. 213 and H.R. 37 will help to give proper recognition to the many heroic individuals who played such an important role in settling the American West.

I would also like to take this opportunity to express my appreciation to the many dedicated volunteers who have been so supportive of these national trails. In particular, I would like to thank Bill and Jeanne Watson, with the Oregon-California Trail Association, Pat Hearty with the Pony Express Trail Association, Ron Anderson with the Mormon Trail Association, and Loren Horton with the Iowa Mormon Trail Association. The efforts to preserve and provide recognition for these trails is truly a grassroots labor of love involving thousands of individuals.

Again, thank you for holding this hearing and giving me the opportunity to testify in support of S. 213 and H.R. 37. I would appreciate the Subcommittee's favorable consideration of this legislation.